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May 30th, 1856. 815

Parties present.

Mr. O'Connor calls—

Joseph Kernochan, who being sworn, says : I am a merchant, residing in the city of New York, aged sixty-seven years ; I knew Henry Parish, deceased, fifty-six years, at least ; I know Daniel Parish very well, and have known him for the last thirty-eight years ; my late wife was a cousin of the Messrs. Parish ; I first knew Henry Parish in Newburgh, in the summer of 1799 ; he was a clerk to his uncles Jacob & Thomas Powell, in Newburgh, in a store ; I was then a clerk in a neighboring store in the same village ; Henry Parish remained in Newburgh until 1805 or 1806 ; he then came to New York ; I first knew Daniel Parish, in Newburgh, in 1818 ; I think he had left school at that time, and had been a clerk with his uncles the Messrs. Powell, but was not then in their employment ; in the summer of 1818 Daniel became a partner with his brother Henry, in a store in Charleston, South Carolina ; the name of that firm was Parish, Miller & Co, I think ; I became interested in it on 1st January, 1819, and purchased out the interest of a retiring partner, and was interested in the Charleston business from its commencement, in the autumn of 1818 ; Henry Parish first went into business by going into partnership with his uncles in Newburgh, and he was in business with them from 1811 or 1812 to 1814 or thereabouts ; he came to New York in the autumn of 1814, and entered into the dry goods' business under the the firm of Gillespie, Parish & Co. ; Ephraim Holbrook, deceased was the company ; that firm continued, I think, until January, 1815 ; Mr. Parish's next firm was Disbrow, Parish & Holbrook, in the dry goods business ; that commenced in 1815, and continued till 1st January, 1819 ; I then became partner in that same firm and business taking the place of Mr. Disbrow ; the new firm was Parish, Halbrook & Co. ; that firm continued until the 1st of July, 1825 ; Mr. Holbrook and Mr. Henry Parish retired from business at that period ; Mr. Daniel Parish and myself continued the business in New York until 1827, under the firm of Kernochan, Parish & Co. ; the company was a connection with a house in Charleston, called Parish, Corning &

- 819 Co. ; consisting of Jasper Corning, Thos. Parish, a brother of Henry, the decedent, [Thomas has since died without issue,] the firm in New York made the company in that firm ; I think in the autumn of 1827 Henry Parish returned to the business in New York, without any change being made in the name of the firm ; that firm with some addition partners and branches continued till July, 1833, when I retired ; after that the business in New York was continued under the firm of Parish, Marshall & Co., consisting of Henry Parish, John R. Marshall, Daniel Parish & Leroy M. Wiley ; there was a firm in New York at the same time,
- 820 styled H. and D. Parish, composed of Henry and Daniel only ; I am not aware that firm of H. and D. Parish has ever been dissolved by publication ; I know of no other dissolution than by death ; there never was any other ; Parish, Marshall & Co., did not continue more than a year when another partner, Thomas T. Norris was taken in, and it was continued under the name of " Parish & Co.," until July, 1838 ; the firm was then dissolved, and all the other firms in Charleston, Mobile and New Orleans were at the same time dissolved ; Henry and Daniel Parish retiring therefrom and from commercial business ; Henry Parish was
- 821 first concerned in business in Charleston, as early as 1815 or 1816 ; that firm was, I believe, Butler, Melvin & Co. ; from that time down to the final dissolution in 1838, except from 1825 to 1827 ; Henry Parish was always interested in a firm in Charleston ; he first became interested in a firm in New Orleans, in the autumn of 1827 ; it was Gasquet, Parish & Co. ; that firm was continued until 1838 ; he first became interested in a firm in Mobile, in 1829 or 1830 ; that firm was T. P. Norris & Co., and was continued till
- 822 1838 ; Daniel Parish first went into business with his brother Henry in the firm in Charleston, in 1818 ; he had been previously a clerk in that same house ; Daniel was always interested in the Charleston House up to the dissolution in 1838 ; he was the head of the Charleston firm from 1818 to 1825 ; he stayed there all the time and managed that business ; Daniel became a partner in the New York House in 1825, when his brother Henry retired, and continued a partner in that house until the dissolution in 1838 ; Daniel was a partner in the New Orleans House always from its first establishment ; he was a partner in the Mobile House during its

whole existence until 1838; the firm of H. & D. Parish 823
 commenced on my retiring in 1833; that was the succes-
 sor of Kernochan Parish & Co.; H. & D. Parish con-
 ducted their business in a different office from Parish,
 Marshall & Co. in New York, and purchased and paid
 for all the goods sent to New Orleans and Mobile;
 Daniel Parish lived and transacted business in New
 York, from 1825, onwards; Henry Parish had three bro-
 thers, Daniel, Thomas, and James; Thomas was never
 married; he died after the dissolution in 1838; he
 died at the house of Henry Parish in New York, as I un- 824
 derstand; James Parish is yet living, and resides in
 Dutchess county; he is married and has children; Henry
 Parish had two sisters, one Miss Anne Parish, a maiden
 lady residing at Newburgh with her sister, Mrs. Sherman—
 the other sister is Martha, now the wife of Mr. Sherman,
 who has three or four children; when Thomas died his
 father was living; the father died in November, 1841;
 Thomas left an estate of \$200,000 to \$240,000; he died
 without leaving a will; I think Daniel Parish was mar-
 ried, I think in August 1821; he has a number of children,
 quite a number; Henry married, I think, in 1828; it 825
 was after he returned to business in 1827; Henry
 Parish first kept house in Barclay street, No. 49; there
 were three houses built then together, one occupied by Mr.
 Leavitt, one by Henry Parish, and one by Daniel Parish,
 the last two adjoining; the brothers took the leases from
 Columbia College, and built together; they moved into
 their houses about 1830 or 1831; they lived there until
 Henry Parish moved into his house in Union Square, I
 think in 1843; Daniel lived in Barclay street until within 826
 two or three years last past, when he moved into his new
 house in the Fifth avenue, at the corner of Sixteenth street;
 Henry Parish first went to Europe in the autumn of
 1842, I think, and he returned in the summer of 1844;
 that was his only absence from the country; Henry
 and Daniel purchased ground in Washington Place, per-
 haps about 1840, for the purpose of building together;
 side by side. In consequence of some discovered or fancied
 defect in the title they got rid of that purchase; dur-
 ing Henry's absence in Europe, in 1843 or the winter of
 1843-4, Daniel Parish, as I understood from both of them,
 in pursuance of an understanding between him and his

827 brother before the departure of the latter for Europe, purchased grounds for both of them on Union Square, not adjoining, but near each other. Daniel does not own the lots on Union Square at this time; he disposed of them after his brother was attacked with paralysis in 1849 or 1850, I believe; those two lots were about fifty feet apart; I was as intimate with Henry Parish as I could be with any man; I was always intimate with Daniel Parish; Henry was nearly a year older than myself, and I think completed his 68th year in January last; Daniel was said to be twenty-one
828 years of age in 1818, when he went into business; he is now, I think, fifty-nine; it was on the 19th of July, 1849, that Henry Parish was attacked with paralysis; I never knew the slightest interruption of the friendly relations of Daniel and Henry down to the time of that attack; I should think their relations were perfectly cordial always; I never knew any difference or cause for any difference.

After his retirement from commercial business in 1838, Henry Parish was occupied in getting his debts collected, and closing up his business transactions; that was all the occupation he had except managing his own estate; he made no
829 investments except in public stocks for some time, and lending money on bond and mortgage, and so forth; the funds of H. & D. Parish were not separated, and the investments were made for joint account during this period; Daniel was occupied during the same period in the same way; they had a place of business together in Water street, No. 126, an office simply, and where I also kept my check-book, and attended to what business I had to do; they charged me no rent; Henry Parish and myself owned that house in
830 Water street; H. & D. Parish paid rent to me for the office; they kept all their books, the books of their old concern. and their present books, in that office; that was the common place of meeting of all three of us, every day when we were in town; they kept a book-keeper; George W. Folsom was their book-keeper; Daniel Parish and myself still continue to occupy an office together, and Mr. Folsom is still there as book-keeper.

JOSEPH KERNOCHAN.

Subscribed and sworn before }
me, May 31st, 1856, }

A. W. BRADFORD,

Surrogate.

June 2, 1856. 831

Parties present.

Joseph Kernochan, being further examined by Mr. O'Connor, says: I think Mr. Henry Parish sold the premises 49 Barclay street, for \$12,500, and I believe about 1847, before he moved; I know the store and lot No. 54 Pine street; in 1842 it was worth from \$25,000 to \$27,000; it rented for more in 1842 than it did in 1849; I think it rented for about \$3,000 in 1842 because it was on a lease previously made; in 1849 it rented for \$2400 or \$2800, probably the latter sum; No. 160 Pearl street the whole lot was worth, I think, \$30,000 in 1842, and has been worth that since; the rent in 1842 was higher than it was some time afterwards; it rented then for \$2800, and now rents for the same sum; it has been lower in the interval; the house and lot 124 Water street, in 1842 was worth, I think, about \$17,000, and rented for about \$1500; sometimes it has rented for less; the present rent is about \$1500, and that would be about the average; the house and lot 126 Water street was worth about \$19,000 in 1842, and is about the same value now; the rents have been from \$1600 to \$1800; the present rent is \$1700. 832

Q. Do you know a property which fell to Henry Parish in the division of the property of Gaskett, Parish & Co., New Orleans, which is described in the first section of Henry Parish's will? 833

A. I know something about those properties; assisted in dividing them and represented one of the absent partners in the division; I think the gross rents of that property in 1842 were about \$6000 a year, subject to heavy deductions for taxes and repairs; perhaps the most they ever netted was \$5000 or thereabouts; I do not know the value except so far as may be gathered from the income; it certainly cost \$60,000; the value of the real estate on Union Square in 1849 I have no data to judge of; it was very valuable undoubtedly; I should think from \$100,000 to \$120,000 at that time—certainly the latter sum now; the house and lot 67 Wall street, in 1849 was worth, I think, \$90,000, judging from its income and sales of other property in the neighborhood; it produces now over \$11,000 per annum; 834

835 after Mr. Parish retired from business he occasionally was in the habit of buying commercial paper; it was rather a favorite occupation with him; he always had a propensity to operate in notes; I think I was intimate with his habits in relation to investments; I knew all that he did pretty much in that way.

(Mr. O'Connor requests the witness to understand that all inquiries in relation to Mr. Parish refer to the period prior to his attack in 1849, unless otherwise expressed. The witness says that his answers this day have referred altogether to that period.)

836 Q. To your knowledge, did Mr. Parish ever invest in such securities as are mentioned in the paper I now hand you?

(Objected to as irrelevant—question allowed.)

A. In answer to that, I can only say that Mr. Parish was not in the habit of investing in railroad bonds; they were not a favorite security with him; here I see the California Steam-ship Company; that, he had an opportunity of investing in before he was attacked; so far as I know, he did not invest in it; we looked it over together, and thought we did not know enough about it. (The paper is marked Exhibit No. 10.)

837 Q. Prior to retiring from business in 1838, what were Mr. Parish's domestic habits in reference to the mode of spending his time?

A. His time was chiefly occupied in his business, it being a very extensive one; I think he usually dined at home; after dinner he frequently came to the store; when business was brisk he always came in fact; when he was not engaged in the store, I frequently met him in the evening at the club—the Union Club or the Rackett Club; from the club he was frequently pretty late in going home; I could not know much about his habit as to remaining home after dinner or going elsewhere; he had whist parties at his house, and went to whist parties at other houses once a week at one house or another as they alternated.

Q. Was his habit, in respect to where or how he spent

his afternoons and evenings after dinner, observed upon in 837
your hearing by his wife ?

(Question objected to on the ground that it assumes a fact of which the witness says he knew nothing, and also because it is leading—question allowed.)

A. I have frequently heard Mrs. Parish reproach him for spending too many of his evenings at the Club, and sometimes for staying so late.

Q. What figure as to size and weight was Mr. Parish ?

A. He was five feet ten or over in height, and the latter part of his life quite stout, weighing 180 pounds and upwards.

Q. As to understanding and capacity for business, and for conducting the affairs of life, what was the character of 838
his mind ?

(Objected to as calling for opinion—question allowed.)

A. He was discreet in all things, so far as I knew—of sound judgment, rather slow to decide.

Q. Have you heard him speak of his brother Daniel ?

A. Very often, especially while Daniel was in Charleston.

Q. In what way did he speak of Daniel, and what sentiments, if any, express about him ?

A. Always favorable as to his capacity for business, and never unfavorable on any topic.

Q. During the period from his retirement in 1838, until his attack in 1849, with what degree of frequency did he 839
and Daniel meet and converse together, or do business together ?

A. Every day at the office when they were both in town ; that might be said without any exception when they were both in town.

Q. What was the manner of their intercourse on these occasions down to the attack in 1849 ?

A. Always friendly and brotherly, so far as I knew or could perceive.

Q. Did Henry Parish ever inform you that he had made a will ?

A. He never did ; I may have heard him say he had made a will in course of conversing ; but he never in-

840 formed me of anything relating to its provisions ; I never got any information from him on the subject.

Q. Were you in the habit, and to what extent, of visiting at Mr. Parish's house, and dining with him and his family ?

A. Yes, sir ; I dined there occasionally, not very often, perhaps ; I dropped in on Sundays, sometimes after my dinner, while his family was at the table ; there was no great extent of visiting : we saw each other so much at the store, there was no great occasion of visiting.

Q. Prior to the attack in 1849, were you on terms of friendly intimacy with Mrs. Parish ?

A. Always, I believe, so far as I know.

841 (Mr. O'Connor, states that he will now proceed to inquire about occurrences after the attack in 1849.)

Q. Were you in the habit of visiting Mr. and Mrs. Parish after the attack in 1849 ?

A. I was in the constant habit of visiting at the house.

Q. Please to state your habit in this respect, stating the degree of frequency, the nature of your visits, as whether you dined or took tea, and the usual length of a visit, and down to what date your habit in these respects was continued ?

842 A. In the early part after the attack I called frequently, perhaps two or three times a week, even more perhaps, when he was in town, and when I was ; afterwards I visited there every Sunday with a few exceptions, bad weather or something like, while we were in town ; that continued down to within two weeks of his death ; in the early part I merely called to inquire after him, and to see how he was getting on ; stayed ten or fifteen minutes as the case might be, sometimes longer or shorter ; afterwards I was in the habit of dining with him, frequently on Sundays, in the city and sometimes in the country at Hellgate ; sometimes I took tea there, in the city and country both, if it was introduced ; I also called occasionally on Sunday evenings in the city ; that would be when I had not seen him during the day ; if I did not dine there, the visits in the day-time

never exceeded from ten minutes to half an hour ; when I 843
 dined with him I spent probably three hours at the house ;
 the evening visits were usually longer than those in the day
 when I did not dine ; that arose from finding generally Mrs.
 Parish's brothers at the house, and having various subjects
 to talk over ; I also met Mr. Charles A. Davis in the even-
 ings occasionally ; I can't say about what time I began to
 dine there after the attack ; it was about as soon as he was
 able to sit up at the dinner table ; I should think it was
 very likely it might have been within six months after, per-
 haps earlier, but I can't be certain as to the time ; he was
 brought into the dining room by the assistance of a servant ; 844
 I think always ; the servant pinned or placed a napkin
 under his chin ; his victuals or meat, if they required cut-
 ting up, were cut up by a servant ; I think always ; he
 could not cut them himself ; he fed himself with a fork in
 his left hand, of which he seemed to have the pretty free
 use, I thought ; he helped himself to wine sometimes ;
 generally the servant helped him to wine ; he always car-
 ried the glass to his lips with his own hand ; I never saw
 him assisted in that by any one ; before his attack the nap-
 kin was not fixed in that way under his chin ; I never saw 845
 him walk about, out of doors, after the attack ; I do not
 think I ever saw him walk about the house entirely without
 aid ; I am not positively certain about that, but he could
 not have walked much entirely without aid.

Q. Prior to the death of Mr. Parish, did you ever hear
 of either of the two papers which have been here pro-
 pounded as the second and third codicils ?

A. I never did.

Q. At these visits which you made to the house of Mr. 846
 Parish were you ever alone with him ?

A. No, sir ; never to any length of time ; perhaps never
 to the extent of half a minute ; I say that up to within a
 year or so of his death ; within the last year or fifteen
 months of his life I have been with him alone, perhaps from
 one to three minutes ; when at these visits, we were not
 alone ; Mrs. Parish was generally present, and in her ab-
 sence one of the Messrs. Delafield, Henry or William ; it
 sometimes happened that I called there before Mrs. Parish

847 had returned from Grace Church, on Sandays, and then found one of the Messrs. Delafield there, as I stated before.

Q. Did you ever hear Henry Parish utter a word since his attack in 1849?

A. I have heard him make a sound, accompanied with nod, or shake of the head, which I interpreted, according to the nod or shake of the head, as affirmative or negative within my hearing there never was any distinct articulation in any case, not even of a single word; the sound was always very much alike, though sometimes louder than others.

Q. Did you ever hear from him any more than on sound?

A. I think I have replied to that before.

848 Q. You have spoken of a nod and shake of the head had he any other gesture or motion, which he used, in connection with sound?

A. Yes, he had a motion of his left hand, which he used in connection with a sound, a continuous sound; and sometimes when more vehement than at others, he would put his two fore fingers in his mouth, his mouth being open and the sound being continued until sometimes it was stopped by the intervention of the fingers; that was the universal motion, waving the left hand with the two fore fingers extended; the other two closed on the palm, back and forth across in front, terminated generally by putting them in his mouth; the continued sound was like nin, nin, nin; the sound was always the same, but sometimes more rapid and louder, than at others; if it could be spelled at all, it must always be spelled with the same letters.

849

Q. Did you ever understand or attach any meaning to this last mentioned motion or series of motions with the hand or the sounds accompanying them?

(Objected to as leading, and calling for opinions—allowed.)

A. I certainly never understood them; I was told that he wanted to be informed of something; I attached no definite meaning to them of my own observation.

Q. Did you yourself ever discover or perceive by these last mentioned sounds and motions, that he wanted to be informed of anything?

A. I was told that was his object, but I never could make 850
it out with any certainty myself; I frequently acted on the
suggestion that he wanted to make some inquiries, and
would go on to communicate whatever I thought would be
interesting, but was never perfectly satisfied that I had hit
the object.

Q. At the time of making this last mentioned motion
and sound, did you ever observe how he employed his
eyes?

A. I am not quite certain that I paid much attention to
that; his eyes, from a natural defect, were not very bright,
I thought he looked at me at the time of making these mo-
tions and sounds.

Q. Prior to the attack, where did Mr. Parish keep his
books and papers?

A. His books were kept at the office we occupied to- 851
gether; his papers were always kept at the Phoenix Bank
in a tin box, or some case, as is usual; when he did not ex-
pect to be at the store, or was likely to be absent, he left
the key of this box at the office with Mr. Folsom; I think
I might say the key of the box was always at the office, and
within reach of Mr. Folsom, for access, in case occasion
required; I don't think Mr. Parish ever carried it with
him.

Q. When did you first visit the house after his attack?

A. I was in Newburgh when he was attacked, and pro-
bably visited his house the day after, or the day but one
after; I think I did not see him until about the first of
August; I think I saw him in bed then, and very feeble;
I made no communication to him then, about his business;
I did not attempt to make any communication to him. 852

Q. Did you, early in August, 1849, at any of your visits,
say anything to him about his business?

A. I think so, as soon as I thought he would comprehend
anything. I told him I had collected our joint rents, and
that I had paid some certain sum, perhaps ten thousand
dollars, at the Phoenix Bank, on account of a note they held
for a temporary loan of his; I thought he took very little
notice of this; it did not seem to interest him much.

Q. Were you at any time, and when, requested by Mrs.
Parish to do anything about getting a power of attorney
from Mr. Parish?

853 A. I should say about the 18th of August, 1849, Mrs. Parish told me that Mr. Parish was desirous that I should take his power of attorney and act for him, until he should be restored ; Mr. Parish was then sitting up, I believe, in his bed-room ; I was told, perhaps by Mrs. Parish, that he was so desirous, not in his presence ; I am not quite certain about that, but I asked Mr. Parish if he wished me to take the power in question, to which he nodded his head, and I left his presence with the understanding between Mrs. Parish and myself that I would accept the power ; on going down stairs I met Doctors Johnston and Markoe in the library, and asked Dr. Johnston (Mr. Cutting here objects to evidence giving conversations between the witness and the physicians, and the evidence is taken subject to the objection reserved) if he thought Mr. Parish's mind was in such a state as to enable him to do business understandingly ; he said that he thought that was very doubtful, and Dr. Markoe agreed with him, as I understood him ; the interview was very short, not longer than would be necessary to say what I have stated ; I went down town to my usual business afterwards, and thought the matter over, and finally came to the conclusion that I would not accept the power, which conclusion I communicated to Mrs. Parish the next morning ; I think I gave her as a reason the conversation which had occurred between me and the physicians in the library, as I have stated ; I think it was in the same room where Mr. Parish was, that I communicated my determination to her ; he was present and close by ; I perhaps did not give the reason of my declining in his hearing or presence, but I did as to my decision.

855 Q. Did you about the time last mentioned do any further business about that note of Mr. Parish ?

A. I don't recollect distinctly that I did at that time, but I have no doubt that shortly afterwards I paid something further on account on it, and reported the fact to him.

Q. How did he act on such report ?

A. I could not perceive that he took much interest in it.

Q. Did you learn from any one the making of the first codicil ?

A. I did from Mrs. Parish herself ; she told me before

it was made that she intended or expected to have one 857
made, and had spoken to Mr. Daniel Lord on the subject I
think. After it was done, she told me that it was done, and
that Mr. Lord and his son and Mr. Holbrook and Dr. Dela-
field and herself were present; I was absent from the city
at the time it was executed.

Q. Did you at an early period of his illness call there
with any of his relatives or connections?

A. I called once with Mr. Sherman, when we did not see
him, and once again with him, when we did see him; that
must have been from the 1st to the 10th of August, when
we saw him together. I don't recollect distinctly the time; 858
we simply asked him how he was, or how he felt, or some-
thing of that kind; at first it seemed to me he did not re-
cognize Mr. Sherman, but I won't be certain about that;
he did afterwards, by holding out his hand, I think; I
never failed to take him by the hand when I saw him my-
self; I don't distinctly recollect that I was ever there with
Mr. Sherman, and saw him more than once; I might have
been, but nothing of importance occurred, or I would re-
collect.

Q. At the time of the attack, had Mr. Parish a note run- 859
ning in the bank?

A. He had a note for a temporary loan in the Phoenix
Bank and another in the Bank of the State of New York;
I think it very likely I might have been the endorser on
both of them; I have always endorsed Mr. Parish's notes
when he wanted to make any loans; I don't distinctly re-
member the amount of these notes; together they were a
considerable sum; certainly the two were forty or fifty
thousand dollars at least; the one at the Phoenix Bank is 860
the note to which I have previously referred as having
made payments on account of.

Q. Were you ever present during the early part of Mr.
Parish's illness when he was receiving any particular med-
ical treatment?

A. I think on one occasion, they were either applying,
or had been recently applying, electricity; I don't recollect
which.

Q. After the attack did you know of any application
made by any of the family, for Mr. Parish's will?

861 A. No sir, I don't recollect any such communication made to me by any one; still it might have occurred; but I have no recollection of it at all.

Q. Did any one, at any time within a year after Mr. Parish's attack, speak to you about getting Mr. Parish's will, or having it brought or sent to his house?

A. I think sometime in the month of December, Mrs. Parish told me the will had been taken from the box containing his papers at the Bank; that was the first I had heard; I don't recollect hearing it before from any other person; the first time afterwards when I saw Mr. Folsom, who had charge of the tin box, and had the key of it, I
862 asked him about it, having heard the fact at Union Square; he told me he had taken the will out of the box and placed it at the Fulton Bank; Mrs. Parish expressed to me when I next saw her a very anxious wish to get the will; I told her I would use what influence I possessed to have it produced; I think on the seventh of January, 1850, I accompanied Mr. Folsom to Union Square with the will, which had been taken from the Fulton Bank for this purpose; Mr. Folsom handed the will to Mr. Parish, I think; it was
863 under seal, and the envelope had never been broken; the seal had never been broken; Mr. Folsom and myself both tried repeatedly to ascertain from Mr. Parish whether it was his wish to have and keep the will, and he occasionally on thus being interrogated nodded, and sometimes shook his head, and I was till the last uncertain what his desire was—and I remain still in ignorance as to that to this day; I don't know whether he wanted it or not; in connection with that I would say that Mrs. Parish told me that Mr. Daniel Parish had taken the will from the box; I told Mrs.
864 Parish I did not believe that he had any agency in the matter; that, I gathered from Mr. Folsom; Mrs. Parish mentioned that Daniel Parish had taken the will; at the first time I understood from her it had been taken from the Bank; I think Mr. Henry Parish was not present when she told me that, but I am not certain; I expressed to her my opinion to the contrary, at the time the will was surrendered by Mr. Folsom; I think that was in the presence of Henry or William Delafield, Mr. Henry Parish, Mrs. Parish and Mr. Folsom; when I told Mrs. Parish I did not be-

lieve Daniel had anything to do with the matter, I am not quite certain whether I referred her to Mr. Folsom or not ; he was there present and could speak for himself. 865

Q. Did Mr. Folsom say anything there on that point ?

A. I am not quite certain whether he did or not, he was talking to Mr. Parish, and I was talking with Mrs. Parish ; Mr. Folsom, on surrendering the will, asked Mr. Parish whether he had made any alterations in the will since he had made that will, to which Mr. Parish shook his head ; the will was left, and was one of those which have been produced here ; Mrs. Parish told me they were both alike ; afterwards I asked her, and she told me they were both alike, she had compared them herself.

Q. Do you know where the other duplicate of the will was at the time Mrs. Parish first spoke to you about the will being taken from the box at the bank ? 866

A. I certainly do not ; Mrs. Parish told me she had one, when she told me they were both alike ; I understood her to have said before that she had one, and wanted the other.

Q. Did she tell you why or for what reason or purpose she wanted the other ?

A. No ; she never told me why she wanted the other.

Q. Were you present at any time before the will was surrendered by Mr. Folsom, when Mr. Folsom asked Mr. Daniel Parish any question about the will, or what he should do with it ?

A. No.

Q. After the attack, was Mr. Parish ever at the office in Pearl street ? 867

A. Very often in his carriage, and I think on some occasions he was assisted into the store ; we occupied the whole lower floor of the store at that time for an office ; Mrs. Parish always accompanied him, and no one else.

Q. What was her business there ?

A. It seemed to be for the purpose of taking exercise on the part of Mr. Parish ; no business could be transacted ; Mr. Folsom would explain to Mrs. Parish what had been done, and show her the books ; these visits were almost all previous to the 1st January, 1850, if I recollect right, but they were in the habit all along of calling in a carriage, but he never came in after we moved the office up stairs ;

868 after that they would send the man to say that Mr. and Mrs. Parish wanted to see either Mr. Folsom or myself; sometimes both; we moved up stairs May, 1850, I think; I don't remember distinctly; I very frequently went down to see them in the carriage on these occasions; when I was sent for, Mrs. Parish had commonly something to say to me about either the renting of property, or dividends to be collected; that was pretty much all.

Q. Was there any occasion when, on a call of this kind, Mrs. Parish talked about any Alabama and Tennessee bonds?

869 A. Yes, there was something of that kind occurred on one occasion; that was about the time perhaps when they were paying the interest on the Alabama bonds; these bonds were kept together and were in Mr. Henry Parish's box, although they belonged partly to Henry, and partly to Daniel Parish; they were kept together because the interest was payable at the same time, and the coupons could be cut off together; I suppose that was the reason; there was a division made of property between Henry and Daniel, in which these bonds were divided, either by numbers, or it was otherwise stated that so many belonged to the one and so many to the other; the box in which they were contained being in Mrs. Parish's possession; for she had taken it from the Phoenix Bank, and kept it at Union Square; I was made the messenger or medium between 870 Mr. Daniel Parish and Mrs. Henry Parish to get Daniel's share of the bonds as divided, and which division I was enabled to show and did show on the books; the end of it was that Daniel got his bonds that he claimed as his share, after several interviews and making the matter fully comprehended.

Q. At the interview in the carriage in front of the office spoken of, were the bonds present in the carriage?

A. Not the first time, but I think they were afterwards or, if they were, they were not given up the first time; I can't be certain about that..

Q. Was anything said to Mrs. Parish in the presence of Henry Parish, in the carriage, about the ownership of these bonds?

A. I brought the book down into the carriage, and 871
 showed exactly how they had been divided, and there were
 the bonds to speak for themselves, agreeing with the me-
 morandum in the book.

Q. Did you at that time get Daniel's share of the bonds?

A. I can't say whether I did at that time, but I believe
 he got them ultimately.

Q. Who brought the bonds to the office the first time
 you saw them in the carriage?

A. I presume Mrs. Parish had them in custody.

Q. Was it at the first call that Daniel's share was deliv-
 ered up to you?

A. I think not; It was subsequent to the first conversa-
 tion in relation to them that the book was taken down;
 there were two or three calls.

Q. Did Mrs. Parish inform you that she was placing 872
 stocks or securities, or making investments in her own
 name?

A. I don't think she ever did; not to my recollection.

Q. Did she from time to time consult you about any of
 the investments that were being made or about to be
 made?

A. Very often.

Q. Look at paper Ex. 10, and say whether she ever con-
 sulted you about purchasing or dealing in any of the se-
 curities mentioned on that paper?

A. I think not; she told me she had taken stock in the
 California Steamship Company, after it had been done; 873
 and she also told me of her having Erie Income Bonds on
 hand in the autumn of 1854; I think when a change was
 to be made for other bonds; they were to be paid off at
 par, and other bonds to be given at 80, which operation I
 recommended and even advised her taking more of the
 new bonds which were to be issued at 80; that was in the
 autumn of 1854, probably at her own house on Union
 Square; Mr. Henry Parish was present then and he always
 was present when she consulted me about investments; in
 fact I very rarely saw her, unless in his presence.

Q. Did either William or Henry Delafield inform you
 that purchases or investments were being made in the
 name of Mrs. Parish?

874 A. Never, to my recollection.

Q. Did Mrs. Parish mention to you, at any time, anything about Mr. Daniel Parish doing anything objectionable at the house of Mr. Parish ?

A. She told me he had pushed rudely by her and into his brother's room, on one occasion when she had told him he was not in a condition to be seen ; it must have been in the summer of 1849, she told me this soon after the attack ; it could not have been long afterwards.

Q. After the attack and after Mr. Parish was up, had you any conversation with Mrs. Parish, about Mr. Henry Parish's reading or writing ?

A. Yes, I had one or two conversations with her on that subject, and understood from her that he could neither read nor write ; I don't mean to say that he could not know the letters—some of them—but that he was not in the habit of
875 reading ; I suggested to her that it would be a kind of pastime to him if he could read ; I also remarked that it would be very easy, he then having the use of his left hand, to learn to write with his left hand ; I also suggested taking a dictionary and referring to the words, his looking up the words and pointing to them to construct phrases and sentences, by which it would be known certainly, what he wanted to communicate ; I made these suggestions several times, but do not know that they were ever attempted, either of them.

Q. Did you ever see him read anything ?

A. Never ; I don't know that I ever saw him attempt to read anything.

876 Q. Did you ever see a newspaper put into his hand ?

A. It does occur to me that I have seen him with a newspaper in his hand, but he did not appear to look at it as if he were reading.

Q. When you spoke to Mrs. Parish about his writing with his left hand, what did she say ?

A. I don't distinctly remember the words she used, but the amount of it was that he would not take the trouble ; that was what I gathered to be the substance of her answer.

Q. When you suggested the dictionary experiment, what did she say ?

A. The answer was very much to the same effect. 877

Q. Did you ever suggest to Mrs. Parish anything about the use by Mr. Parish of block letters to convey his meaning?

A. I am not quite certain whether I ever suggested that but she told me they had been placed before him, and that he brushed them off with his hand or arm.

JOSEPH KERNOCHAN.

Subscribed and sworn be- }
fore me, June 2, 1856, }

A. W. BRADFORD,
Surrogate.

Exhibit 10.

Hudson River Railroad First Mortgage Bonds.
Watertown and Rome Railroad Bonds. 878
Erie Railroad Income Bonds.
Erie Railroad 2d Mortgage Bonds.
Harlem Railroad Bonds.
New Haven and New London Railroad Bonds.
Northern Indiana Railroad Bonds.
Illinois Central Railroad Freeland Bonds.
Little Miami Railroad Bonds.
New York and Buffalo City Railroad Acceptances.
New York and California Steamship Company.
Covington and Lexington Railroad Bonds.
Michigan and Southern Railroad Company Bonds.
(Marked) No. 10, A. W. B.



June 3, 1856. 879

Parties present.

Joseph Kernochan, being further examined by Mr. O'Connor, says :

Q. About how soon after Mr. Parish was up and seeing people did you talk with Mrs. Parish about making him write or use the dictionary.

A. I should think it was sometime about the middle or last of August, 1849—and probably again in September.

Q. Did Mrs. Parish ever speak to you about any difference between investments in stocks or mortgages ?

A. I think within the last year or year and a half, she expressed a decided preference for mortgages. as being a safer form of investment ; I had always recommended mortgages myself.

Q. State what she said on that subject and the manner of it ? 880

A. It appeared to me to amount pretty much to this, that she found that stocks and railroad bonds were uncertain and speculative ; I don't pretend to give the words she used, but it amounted to that.

Q. Did she say anything as to her future intentions in respect to investments ?

A. I inferred from what she said, that she meant to confine herself to that description of investment for the future, chiefly.

Q. Did you ever see Mr. Daniel Parish at the house of his brother Henry, after the attack ? 881

A. I have no positive recollection that I ever did, still it might have occurred once, but not frequently.

Q. Did Daniel Parish visit Europe at any time after his brother's attack ?

A. I think he did ; I don't recollect the time he went, nor the length of his absence ; it certainly must have been four years ago that he went, and he was gone the better part of a year I think, but I am not certain as to that ; I dare say I mentioned to Mrs. Parish the fact of his going or intending to go ; I now recollect that I did mention to her that he was going, about the time that he went ; I think she said she was glad of it.

882 Q. Did Mrs. Parish at any time when you were with her and Mr. Parish in the carriage, at your office-door, speak of or suggest your coming to dine with them ?

A. Yes, I think frequently.

Q. Do you remember any question on that subject put to Mr. Parish ?

A. I think that was resorted to on all occasions when we could not find out what Mr. Parish wanted by our other questions, or that he wanted anything ; when that was resorted to, I believe he always answered that by an affirmative, as I understood ; there might have been some exceptions to the affirmative ; on some occasions he shook his head.

883 Q. On those occasions when he shook his head, did you go to dinner according to the suggestion, or not ?

(Objected to as leading ; allowed.)

A. Unless something important interfered I generally went to dinner, Mrs. Parish urging it.

Q. You have spoken of a shake of the head being interpreted by you as "no," and a nod being interpreted by you as "yes ;" when you were with Mr. Parish, and he shook his head or nodded, did he continue to nod or shake his head to the same suggestion, or not ?

(Objected to as leading ; allowed.)

884 A. I think he did not always adhere to the one or the other, as it might be, I think, that sometimes in reply to the same question, he changed from a "nod" to a "shake" of the head, and *vice versa* ; that occurred particularly in relation to the will, the leaving of the will, when he both nodded and shook his head, when the same question was put, not at the same time, but at an interval—which led me at that time to suppose that he did not want the will left : that was the strongest case that occurred.

(Mr. Cutting objected in time to the portion of the evidence beginning with the words "which led me," and end-

ing with the word "left," on the ground they are expressive 885
of opinion and argumentative.)

Q. When, in the carriage he shook his head to the suggestion that you should dine with them; did you at the time attach any meaning to that motion?

(Objected to as leading and incompetent; allowed.)

A. I certainly did not suppose that he meant to exclude me from dining there.

Q. Did you ever after the attack observe Mr. Parish to laugh or smile?

A. I don't think I ever saw him laugh since, but I have some times seen a more agreeable expression on his face than at other times.

Q. Did you after the attack notice anything on the part of Mr. Parish which is ordinarily treated as a mark of grief? 886

A. I very often saw him shed tears; for certainly a year, I think, he shed tears almost every time I saw him; I think it was within the first two years after the attack, and more or less so through the whole course of the period after the attack.

Q. Did he display temper, or irritability, or anger?

A. Frequently he was quite irritable, I thought; that occurred generally in the interviews in the carriage, and when there was a difficulty in making out what he wanted, or Mrs. Parish suggested something that he didn't want. 887

Q. Previously to his attack, what was his general manner or habit as to displaying his emotions?

A. He was the most placid and unexcitable man that I almost ever knew.

Q. Did you ever see him shed tears before this attack?

A. I can't recollect that I ever did, though it may have happened on some occasion of great grief, in consequence of the death of connections.

Q. In what degree, and from how early a date in his illness, had he the use of his left hand?

A. I should think that he began to have the use of it with some strength in thirty or forty days; before that I

888 thought it was only weakness, general feebleness of the system; after that his fingers were as flexible, and he had as much use of his left hand as I have; better, too, because he used it more, decidedly.

Q. At any time after his attack, was Mr. Parish capable of transacting business, or managing or disposing of his property?

(Objected to as leading and incompetent; objection sustained.)

Q. What was the state of his mind, memory, and understanding from the time of his attack, in 1849, until his death, judging on this subject from your own observation of him, during that period?

889 (Objected to as incompetent; allowed.)

A. I did not think that he knew much; when a person neither writes, nor speaks, nor does much, it is difficult to judge; I don't think that he had much mind.

Q. Did you ever observe any illness or affection, of a physical kind, about his head, previous to his attack?

A. I had always thought that he was constitutionally subject to vertigo or tendency of blood to the head; he had two or three attacks of it, before he went to Europe, of a slight nature; he complained of it in his conversation; his father died of the same thing; it was a family complaint, a family tendency; I think so.

890 Q. Of what kind of property, and in what way invested, was the estate of Henry Parish's father?

A. The most of his estate was what he herited from his son Thomas, and consisted of money when he got it; Henry's share of his father's estate I suppose must have been about fifty thousand dollars; I don't know exactly; there were four children who inherited the estate; at the time of the death of Henry's father, his estate was in the hands of H. and D. Parish, in the course of collection of the assets of the old firm.

Being examined by Judge Edmonds, the witness says, I think Henry Parish was worth about two hundred and fifty thousand dollars in 1825, certainly as much as that; in 1838, when he retired from business, he was worth from

\$650,000 to \$700,000 I should think ; that may be a light 891
 estimate, but it can't differ much ; his property then was
 very much scattered all over the country ; I am not aware
 that James Parish was ever connected with Henry in bu-
 siness ; James Parish had sons and daughters, but I do not
 know how many, nor the names of them, except one—
 Jacob ; I should think that James was worth little or
 nothing before his father died ; before his father died, or
 while he was engaged in the paper manufacturing busi-
 ness, James received pecuniary assistance from Henry, or
 the firm of Henry & Daniel Parish ; I don't know which ;
 I don't know the extent ; I know there was a deficiency, 892
 but do not know its extent, and cannot give the time ; be-
 fore Henry went abroad, he said he intended to be absent
 from one to two years ; I never heard that he returned be-
 fore the time he had intended to return ; I don't think that
 after his return we had any conversation as to the mode in
 which Daniel had conducted the business in their joint
 names in his absence ; I believe he did mention casually
 that there had been a good deal of money lost in cotton
 speculation ; he made no comments, that I recollect, on
 the subject—no complaint whatever ; I understood that
 the loss was heavy, probably from \$150,000 to \$200,000, 893
 balance of losses over gains, and which losses I always un-
 derstood Mr. Daniel Parish footed individually ; I never
 understood the entire extent of those speculations ; I was
 absent at the time ; I never heard that Henry Parish had
 been made responsible for any part of it, or that Henry,
 after his return, made any advances on that account ; I
 never knew of any discussion between them, whether those
 speculations were on joint account, or the individual ac-
 count of Daniel ; the lots on Union Square, I think, were 894
 purchased by Daniel, when Henry was in Europe ; Daniel
 sold in Union Square, after, I think, his brother was
 stricken with paralysis ; I never understood from Henry
 Parish anything about his intended testamentary disposi-
 tions before he went to Europe, or after he returned,
 although he told me he was about making his will in Sep-
 tember, 1842 ; he did not even tell me he was making me
 an executor ; he never did ; the relations between Henry
 and his sisters Anne and Mrs. Sherman were always friendly

895 and affectionate as brothers and sisters ought to be, so far as I know; I think his sisters always called at his house when they were in town, and sometime stayed over night with him; very soon after their father's death his sisters bought a place at Newburgh, and resided there together; Henry visited them at Newburg frequently; although he was not in the habit of going out of town much; there was not stint or reluctance at that; Henry very seldom saw James, unless the latter happened to come to town; I never knew anything unfriendly between them; they could not
 896 be intimate because they did not see each other very often; Henry saw Daniel every day at the office, and they had constant business intercourse between each other; I suppose that the only difference Henry made between his brothers Daniel and James was, that one helped him to make his money and the other did not, at least I never knew any other difference; I believe Henry was not in the habit of visiting James very often; I suppose very rarely; when he lived at Coeymans and his father resided there I
 897 suppose he called on him when he visited his father, but when James lived at Pokeepsie I never knew Henry to visit him there; I don't know how long James lived at Pokeepsie before Henry died; I never saw any of James' children at Henry's house, unless it might be Jacob, and I don't know that I saw Jacob there; I saw him at the office very often; the relations of Henry Parish with Judge Sherman, his brother-in-law, were always friendly, so far as I ever knew; I believe Mr. Sherman is a lawyer; I think he was employed by Mr. Henry Parish to do legal
 898 business on two occasions; I don't think I met Judge Sherman at his house frequently; although that might have been because I did not go there very often perhaps; I know that Mr. Sherman did go to his house; Mr. Parish treated everybody courteously; I have no reason to suppose that he treated Mr. Sherman any differently.

Q. How was Mr. Parish's treatment of Judge Sherman in comparison with his mode of treatment of his other relatives?

A. I never remarked any difference; I saw them together frequently at the office; the relations there were friendly and intimate; I never knew any coldness or reserve.

Q. Having frequently seen them together at the office, 899
can you not give me some idea how intimate they were?

A. Their intercourse was always friendly and amiable
so far as I ever saw it. Mr. Parish's manner was never
very demonstrative as to his feelings.

Q. What was their habit as to consultations with each
other on matters of business?

A. I know very little about that.

Q. Did you ever see Mr. Parish in the presence or com-
pany of Judge Sherman's children.

A. Never that I know of or recollect now; I think I
never have seen him at Judge Sherman's house.

Q. What were the relations, intimate or otherwise, be-
tween Mr. Henry Parish and his own wife.

A. I suppose they were always such as those of a 900
husband and wife should be.

Q. What was the extent and character of her influence
with him before his illness?

A. I know nothing about the extent of her influence or
the character of it.

Q. How was it after he was taken sick? (Objected to
by Mr. Cutting as incompetent. Judge Edmonds waives
the question.)

Q. In your communications with Mr. Henry Parish after
his attack of illness, did your communications relate to dis-
positions of property?

A. Only so far as in conversations with Mrs. Parish, and
in his hearing I might have recommended operations and
investments. 901

Q. Did these communications relate to his personal rela-
tives?

A. Never.

Q. Did Mr. Henry Parish manifest any feeling towards
Daniel Parish in connection with the removal of the box
of papers from the bank?

A. Not that I could ever perceive.

Q. You have stated that at times you saw him weep;
what produced those tears?

A. I never could tell.

Q. Had the topic of conversation anything to do with
them?

902 A. Not that I am aware of.

Q. You spoke of his having had some attacks of vertigo before he went to Europe; can you say when you first noticed them?

A. I don't recollect exactly, but it was sometime before; it might have been a year or two before he went to Europe.

Q. How did you know that his father was subject to the same complaint?

A. I judged it from his general appearance, and heard that he died from it; I think Henry Parish spoke of it, very likely; I am pretty sure he did; we both talked of it; he said he was afraid his father would die of that tendency of blood to the head, or fulness of habit.

Q. Did he say anything about its being hereditary?

A. I don't recollect that he did.

903 Q. After his return from Europe, did you hear from him about his being attacked with illness, while abroad?

A. I believe I asked him, and he told me he had a very unpleasant attack at Baden-Baden, I think; I think he was attacked in the bath, or on coming out of it; it was something tending to vertigo, or tendency of blood to the head; I am under the impression that he did not remain long in Europe after that, but I am not positive of that, still I think so.

Cross-examination by Mr. Cutting:

904 Between the dissolution of the firm on the 1st of January, 1825, and the autumn of 1827, when Mr. Henry Parish returned to business, he embarked in one or two operations of a maritime nature, by which he lost money; he also bought the lot 54 Pine street, and built a store there.

Q. State the general nature of those maritime operations?

A. It was a project of Mr. John S. Crary, and was a sealing voyage, and resulted in nearly a total loss; I don't know any other maritime operations of any magnitude; he undertook no general business.

Q. After 1838, what business did the firm of H. & D. Parish transact?

A. They were making every effort to collect their debts

in the country and to pay their debts. That was the first 905
business. I am not aware that they engaged in any new
operations or transactions.

Q. Up to what period were the funds of Henry and
Daniel Parish kept together?

A. Most of them were together until not very long
before Henry Parish was attacked.

Q. In what manner were their funds chiefly invested?

A. I think it was generally in bonds and mortgages and
stocks, United States stocks, state stocks and city stocks;
no bank stocks jointly, I think.

Q. Until what period did the signature of H. & D.
Parish continue to be put on commercial paper?

A. I never knew the end of it. When they had occasion
to borrow money, they used the joint name; but the joint 906
name was not used after Henry's attack, and I think it was
not used after they separated their property. I am unable
to state the date they separated their property, but it was
not long before the attack.

Q. Who composed the firm of Gaskett Parish & Co. of
New Orleans?

A. When it was first established, the partners were
William and James Gaskett and Peter Conry, all of whom
resided in New Orleans, and Henry Parish, Daniel Parish
and myself in New York.

Q. Who composed the firm of Thomas P. Nims & Co.,
of Mobile?

A. At first, Thomas P. Nims and his brother in Mobile, 907
I think, and Henry and Daniel Parish and myself in New
York.

Q. What was the name of Mr. Henry Parish's father?

A. Jacob Parish. He resided at Coeymans at the time
of his death, on the banks of the Hudson. He must have
been from 78 to 81 years of age when he died.

Q. Was the attack of vertigo, of which you heard he had
died, the first attack of that disorder?

A. No, I think, he had many premonitions.

Q. Did you know him personally?

A. Very well; I had seen him not long before his sick-
ness; I could not say with any exactness; I saw him the
last time he was in the city; I saw him then, at either of

908 his sons, perhaps ; I always made it a point to see him in town, and respected him very much : he always recognized me when I saw him.

Q. What was the condition of his mind as it appeared to you from the observations that you personally made ?

A. He was always discreet, and, I think, a man of good common sense.

Q. Did you at any time before his death from your personal observation and intercourse with him, perceive any change in these characteristics ?

A. There might have been some ; he was not so quick, so ready ; my intercourse with him was very little—to give him a shake by the hand and tell him how glad I was to see him—whenever I did see him.

Q. What was the value of his estate at the time of his
909 death ?

A. That I never knew.

Q. Did he not take all that his son Thomas left ?

A. Yes.

Q. Besides that, had he not other property ?

A. He had, and was never in debt.

Q. Did he leave a will or die intestate ?

(The counsel here agree that Jacob Parish, the father, made a will, in which he gave to Thomas, the son of his son James, \$10,000, and to Elizabeth, a daughter of James, \$5,000, and divided the residue equally among his five then surviving children.)

Q. Did you at any time during the illness of Henry Parish see James Parish at his house or know that he called
910 on him ?

A. I never saw James at his house after his attack ; he was nearly blind, or his eyesight was very bad, at the time Henry Parish was attacked.

Q. After his illness did you ever see any member of James' family in Henry Parish's house ?

A. I don't recollect seeing any ; I never did.

Q. Before his illness had you seen James Parish in Henry's house, and if so, how long was it before such illness ?

A. When James Parish was in town, which was not very frequently in consequence of the affection of his eyesight,

I think he always called at the office, but I never saw him 911
at Henry's house.

Q. Did you ever before Henry's illness see any of the
children of James Parish at the house of his brother
Henry?

A. Not that I know of.

Q. Had there ever been within your personal knowledge
any great intimacy between James and Henry Parish?

A. I should say no great intimacy; he always came to
the store when he came to town, and was received there as
he received his other relations and connexions—nothing
different from that.

Q. When you saw him at the office did not James call
upon matters of business?

A. When he had business he did; and when he had no 912
business at all he called to see his brother.

Q. What was the nature of the disease of the eyes of
James?

A. A cataract, I think.

Q. What was the nature of the disorder of the eyes of
Henry Parish?

A. The same, so far as I know and can judge of such
complaints; the old gentleman; the father, also had the
same complaint.

Q. Do you know of your own knowledge what was the
motive of Daniel Parish in disposing of the lots on Union
Square at the time he did?

A. I never heard of any other than that he had deter-
mined not to build there; I have no knowledge of the 913
cause of his changing his views.

Q. In what degree are you intimate with Daniel Parish?

A. I think as intimate as I can be with any man.

Q. What was the value of Mr. Daniel Parish's property
in 1838?

A. It was very much scattered at that time, but I should
think he might have fairly estimated it at \$500,000 or
\$600,000.

Q. What was the value of Daniel's estate in the sum-
mer of 1842?

A. I don't know that it was much increased; property
did not increase very rapidly from 1838 to 1842.

914 [It is agreed that Mr. Daniel Parish sold his property on Union Square on the 3d of January, 1851.]

Q. What was the value of Mr. Daniel Parish's estate in the summer of 1853?

A. I should think it must have been \$700,000 or \$800,000, perhaps more than that a little.

Q. What was the value of Daniel's estate in January, 1856? (Objected to by Mr. O'Connor as wholly irrelevant. Allowed.)

A. I don't think it had increased from 1853 to 1856, not much.

Q. Did Mrs. Daniel Parish receive by will or otherwise any property, and if so, when, to what amount and from what source?

915 A. She did, I think, by will from her father, John Harris, who died in November, 1854; the amount did not vary much, I think, from \$200,000.

Q. Did your answers as to the property of Daniel Parish include this property which came to his wife?

A. I did not so intend it.

Q. Can you account for or give a reason why the property of Daniel Parish which you have stated at \$500,000 or \$600,000, in 1838, did not amount to more than \$700,000, or \$800,000 in 1853 or 1856.

916 A. I account for that in this way, that there was a great deal of money lost in closing the affairs subsequent to 1838, so that he was not worth more in 1842; and again by the speculations in cotton I have previously spoken of in 1843 and 1844; his family expenses have always been liberal and large, for all which reasons his estate did not increase more than I have mentioned.

Q. Did you know that he had purchased real estate on Murray Hill in company with Messrs. Griffin & Havens, or one of them.

A. I knew that he had made some such operation.

Q. Were the results of that operation profitable or otherwise?

A. I have always understood they were profitable.

Q. State as nearly as you can the amount of such profits?

A. I am wholly unable to do that.

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Q. What was the date of that purchase? 917

A. I think it was in 1843, perhaps in September or August; I think it has been closed and wound up a good while ago.

Q. Was it understood in the family and amongst the friends of Mr. Daniel Parish, that his wife would receive a large fortune from her father?

A. It was known to all those who knew anything about it that she would get all her father had, being the only child, but the amount no one knew much about,

Q. What was the reputation of her father as to wealth?

A. He was supposed to be worth a good deal of money; but it was not a visible property; it would not be called wealth here, but he was called a man of property in Newburgh. 918

Q. What was he generally undertook to be worth?

A. Those who understood to estimate him, thought he was worth one or two hundred thousand dollars, but nobody could tell anything about it.

Q. How long had it been understood in the family, and by the friends of M. Daniel Parish, that his wife would inherit the property of the father?

A. I can't tell how long, but certainly a long time, that is that the family would get it, his wife or her children.

Q. Did you ever know or hear of any misunderstandings upon any subject between Daniel and Henry Parish, at any time?

A. I never did. 919

Q. Did you not know or hear that prior to June, 1836, there had been a disagreement or misunderstanding between Daniel and Henry Parish, in reference to the New York, Charleston and Mobile firms?

A. I never did.

Q. Did you never know or hear that Daniel Parish had complained or intimated that Henry Parish and the other partners wished to get rid of him, and of Thomas Parish, either or both of them?

A. I never did.

Q. Did you never know or hear that some of the partners desired to get rid of Thomas Parish?

A. I think I do recollect something about that.

Q. State what you recollect upon that subject.

920 A. I heard that Mr. Wiley wanted to get rid of Mr. Thomas Parish, but never heard much about it; it did not produce much sensation that I know of; he was not got rid of, but remained in the firm until it was dissolved generally in 1838.

Q. Did you not hear at the time that some misunderstanding or disagreement had occurred between Henry and Daniel, upon the subject of the firm above referred to?

A. I never did.

Q. Did you ever know or hear that Daniel Parish had complained or remonstrated in writing to his brother Henry about that time?

921 (Mr. O'Connor objects to what the witness has heard, and to all inquiries about the contents of letters; question allowed, so far as relates to knowledge and hearing anything on the subject from Henry Parish, otherwise disallowed, and Mr. Cutting is requested to frame his question accordingly.)

Q. Was there, or not, a discussion or misunderstanding between Henry and Daniel, in relation to the division of their father's estate?

A. Not that I ever heard of.

Q. In whose name were the cotton operations carried on in 1843-4?

A. Not being in the city at that time, I have no exact

922 knowledge on the subject.

Q. What is your best knowledge on the subject?

A. I have heard that some of them were in the name of H. & D. Parish, and also that some were in the name of Daniel Parish, but I do not know where the dividing line was, or that there was any dividing line.

Q. From whom, and when and where, did you hear that some of the said operations were carried on in the name of H. & D. Parish?

A. From Mr. Folsom, I suppose who kept the books; I don't know that anybody else ever told me.

Q. Have you never at any time been present, when the cotton operations were the subject of conversation or remark between Henry and Daniel Parish?

A. Never to my recollection.

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Q. Have you ever at any time heard Henry Parish say anything upon the subject of those operations?

A. I may have heard him say that he was astonished that Daniel had gone so deeply into them, but I attached no importance to the conversation because there were no comments made upon it. [The portion of the answer after the words "deeply into them" is objected to by Mr. Cutting and Judge Edmonds, as not responsive.]

Q. Is it your best recollection that you did hear Henry Parish say to the purport and effect contained in your last answer?

A. I think it is.

Q. When?

A. It was sometime after my return from New Orleans in the summer or autumn of 1844; I had been absent from November, 1843, till June, 1844. 924

Q. What else did Henry Parish say in relation to the cotton operations?

A. I have no recollection of his saying anything else except the expression that I have given you, that he expressed astonishment at the amount.

Q. Were not these cotton operations the subject of debate and discussion between Henry and Daniel Parish?

A. I was never present at any such.

Q. Have you not reason to believe, and if so state what those reasons are, that these cotton operations were the subject of discussion and debate between them? (Objected to by Mr. O'Connor as calling for mere reasons and matter of opinion on evidence which may be entirely inadmissible. Objection sustained except so far as the reasons may be derived from knowledge or the statements of Henry Parish. Question to be framed accordingly.) 925

Q. Have you not heard from Daniel Parish that these cotton operations had been the subject of discussion and dispute between him and Henry?

A. I never did.

Q. From whom did you hear that the losses had amounted to the sum mentioned by you?

A. From Mr. Folsom.

Q. What was the cost of the dwelling house in Barclay street, exclusive of the land and lease?

926 A. It cost \$14,000 or \$15,000 to build, I think.

Q. What was the cost of the Union Place lots purchased by Henry Parish?

A. I never knew exactly—about \$34,000.

Q. What was the value of the Barclay street property, at and shortly prior to the death of Henry Parish?

A. I should say perhaps from \$16,000 to \$18,000 in consequence of a change of business; it was worth just as much without the building as with it; the lot in Chambers street at about the time of his death, or shortly before, was worth about \$16,000; it was a lease lot and the good will might
 927 have been worth that independent of the house; that was an outside value; the house was worth nothing; I never knew the cost of the buildings built by Mr. Parish on the Union Square property; in 1849 number 54 Pine street was worth about \$25,000 or \$27,000; the property 67 Wall street, lot and building altogether with alterations, cost something like \$70,000; Henry Parish purchased it in 1845 or 1847, I think, though I am not certain; I don't know how many stores or buildings there were on the New Orleans property mentioned in the first section of the will;
 928 all the stores I think were destroyed by fire two or three years ago; the other buildings, the dwelling houses, are still there; the stores that were burnt rented for between three and four thousand dollars per annum, I believe; after they were burnt the land on which they stood rented for nothing; it has since remained vacant and unoccupied; I don't know as to the dwelling houses what rent they have produced since the stores were burnt; I have not the least notion what the value of the New Orleans property was after the stores were burnt down; I don't know what the
 929 insurance on the stores was; the property with the buildings cost over \$60,000; the cost of the stores and dwellings both was perhaps half of the entire cost.

Q. When Mr. Henry Parish was in the habit of buying commercial paper, did he consult with you before making purchases?

A. Sometimes; not always; his general practice was to buy without consulting any one; he was a very good judge.

Q. Prior to 1849 were railroad securities a subject of investment as much as after that time?

A. Certainly not, because there were not so many of 930
them.

Q. Did not Mr. Henry Parish frequently purchase Railroad Company Acceptances?

A. I think not so far as I know; he might have bought some Erie Railroad Acceptances; I do not know whether he frequently bought Erie Railroad Acceptances or not; prior to 1849 he owned some railroad securities such as New York and New Haven Railroad Bonds, some of which I think he might have bought, and Utica and Schenectady Railroad Bonds; that was about the limit; he had these bonds before he was paralyzed in 1849, because they were 931
paid off afterwards; it was a considerable amount perhaps from \$10,000 to \$20,000, and it may be more than the last figure, but not less than the first; I mean this amount in Utica and Schenectady obligations; I think he had the New Haven obligations at the time of his death, and I think at the time he was attacked; I know we both thought they were good.

Q. You have stated that it was the habit of Mr. Parish to go home pretty late in the evening. Please to state at 932
what hours, and how often?

A. From twelve to half-past one occasionally, for late, and frequently I would say two or three times a week more or less, depending on the weather and other engagements.

Q. Besides the Union Club, or the Racket Court, where else than at home did he pass his evenings?

A. At the opera, when there was one, and at whist, and other evening parties, at the houses of other gentlemen.

Q. When you have heard Mrs. Parish reproach him for spending too many of his evenings at the clubs and sometimes staying too late, state whether the complaints were 933
seriously made or in joke?

A. I thought seriously.

Q. What answer or answers did he make thereto?

A. Some very good-natured reply always; I don't recollect the language of it; I never saw him out of temper on the subject.

Q. How often have you heard Mrs. Parish speak to him on that subject?

A. I don't know how often, but frequently; I never at-
35

934 tached any importance to it; it might have been a dozen times, or not more than half a dozen.

Q. Please to state as nearly as you can what her language on these occasions was?

A. I am unable to say that; I can give the general tenor.

Q. Do so.

A. It was that in consequence he was not as much at home as he ought to be, as she would have wished him to be, and that he was injuring his eyes, which were already painful.

Q. Was anything at that time the matter with his eyes?

A. Oh yes, sir!

Q. State what?

A. There was a general apprehension of cataract, and
935 I think Dr. Delafield made some application to his eyes, in consequence of his repeated infirmity in that way.

Q. When did this disorder of the eyes at first appear?

A. I am unable to say, but it must have been after he retired from business, in 1838, that he made any serious complaint.

Q. About what time was it that Mrs. Parish made to him the remark last above expressed?

A. I should think it was some time after their return from Europe, in 1846, '47, or '48, or along there.

Q. Prior to his eyes being disordered or affected, did you ever hear Mrs. Parish reproach him with having stayed out too late in the evening?

A. Up to 1838, he was so much occupied in business that he did not make himself liable to any such reproach
936 frequently; I am not certain that I heard Mrs. Parish reproach him in that way prior to his eyes being affected; he complained of his eyes pretty soon after retiring from business, I think.

Q. When you say that Mrs. Parish spoke with him seriously, do you mean that she exhibited concern for the state of his eyes, or what else do you mean?

A. I think partly that he did not give her as much of his company in the evening as she desired, and partly out of anxiety for his eyes.

Q. When he went to the opera, was it with or without Mrs. Parish?

A. I think always with her, if she would go ; sometimes 937
without her, if not ; but I am not certain about that ; I did
not go myself very often.

Q. What was the character of Mr. Parish's mind, prior
to his attack in 1849, in reference to being self reliant and
acting upon his own judgment, or being influenced by the
judgment of others ?

A. I think he generally acted on his own judgment, as
much so as most men that I have met with.

Q. When his opinions were formed, was he changeable
or constant in them ?

A. So far as I know, he was pretty constant.

Q. Was he more or less than usually constant, and to
what degree did he carry that ?

A. He generally adhered to an opinion once made up, or 938
to a decision arrived at, and it was not easy to change it.

Q. For how long had you noticed this trait of his cha-
racter ?

A. As long as I have known him at all ; I don't think he
was a character to change much.

Q. Were you frequently present at meetings between the
families of Henry and Daniel Parish, before the attack ?

A. Only perhaps when there was a party at either house
—a general party. .

Q. Excepting upon such occasions have you any personal
knowledge that the families of Henry and Daniel met to-
gether prior to Henry's sickness ?

A. Previous to Henry's moving to Union Square there
was no doubt more or less intercourse between the families. 939
They lived side by side, and I know they had intercourse
frequently.

Q. Is your last answer founded upon your personal obser-
vation, or from inference, from their being next door
neighbors ?

A. It was not founded much upon personal observation,
for I lived at a distance from them ; it must have been an
inference drawn from conversations between them, or re-
marks made in my hearing at the office.

Q. Excepting at general parties, how often have you been
present at family meetings of Henry and Daniel Parish's
families ?

940 A. I don't know that I ever was when the families were together, unless at general parties; I visited more frequently at Mr. Henry Parish's than I did at Mr. Daniel Parish's, and I occasionally saw some of the latter's family at Henry's.

Q. Excepting at general parties, were you ever present at any family meeting at which Mr. and Mrs. Henry Parish and Mr. and Mrs. Daniel Parish were present? if so, specify the instance.

A. I think that at little musical parties, and small parties of that sort, I have met Mr. and Mrs. Daniel Parish at Mr. Henry Parish's, when the whole number would not be over 30 or 40; with these exceptions I have not met them together; except on such occasions I would not be there.

941 Q. Did Henry Parish, at no time of his life, consult you with respect to the testamentary disposition of his property?

A. Never the slightest word.

Q. Did he frequently consult you as to temporary investments of property?

A. Both as to permanent and temporary investments he frequently did consult me.

Q. Had Henry Parish any friend or acquaintance more intimate with him than yourself?

A. I don't think he had.

Q. Was there any other person with whom he was on equal terms of intimacy and confidence, as with you?

A. I think no one, except his brother Daniel perhaps.

842 Q. Did he ever in your presence or hearing consult with Daniel in reference to any testamentary disposition of his property?

A. I never heard him mention the subject to any one.

Q. Was he in the habit of consulting Daniel as to his individual investments?

A. I don't know that he was as to individual investments; most of these investments were joint, and of course as to these they would consult each other.

Q. Subsequently to Mr. Parish's retiring from business, and prior to his illness, what were the usual subjects of conversation between you and him?

A. Chiefly money matters, I suppose, and business matters.

Q. How long after his first attack before you called at his house ? 943

A. It might have been the next day, or the day after.

Q. Whom did you see.

A. I saw Mrs. Parish, I think ; I conversed with her very little on her husband's illness, except to ascertain that he was so ill it was not advisable for any one to see him.

Q. How long after that was it that you saw Daniel Parish at Henry's for the first time ?

A. I don't feel very certain that I ever did see him there ; I feel pretty certain that I never met him in the sick room.

Q. How long was it after your first visit, that you saw any member of Mr. Daniel Parish's family, at Henry's house. 944

A. I don't know that I met any of them there ; his family were at Newport at the time, and some were at Newburgh, and we did not meet very often.

Q. Do you mean that you don't recollect ever meeting any of Daniel's family there, after the attack in 1849 ?

A. I do mean that I have no recollection of meeting any of them there, subsequently to that.

Q. Do you know whether when Mr. Henry Parish was attacked, the family of Daniel left Newport and came to this city.

A. I don't know that the family came ; Mr. Daniel Parish came very soon to the city.

Q. Was it at the time believed that Henry Parish's attack would be fatal, and if so, how long did that opinion continue ? 945

A. I don't know that the opinion ever got abroad that it was expected to be fatal, immediately ; the general apprehension of danger seemed to pass away after the first 20 days, perhaps—perhaps less than that even.

Q. How long after Henry's attack was it before Daniel came to the city ?

A. I don't know exactly how long—not more than three days—perhaps much less ; I was not in the city when he appeared ; I had gone back to Newburgh.

Q. What brought you from Newburgh ?

946 A. I came expressly to see the state of Mr. Parish's case.

Q. How did you hear of his illness?

A. I don't know; I got no letter, but I heard it from common report in Newburgh, a very few hours after it occurred.

Q. When you dined at Mr. Parish's after this attack, remaining two or three hours, how was that time occupied?

A. There was half an hour occupied in the library or more, before we went to dinner; we would be an hour, an hour and a quarter or a half at the dinner table, and adjourn up stairs; Mrs. Parish, myself, and perhaps some other guest would be present, and pass an hour or so in conversation.

947 Q. Was Henry Parish generally present in the library before dinner?

A. Yes, sir.

Q. Who else was present?

A. Mrs. Parish and one or both of the brothers, Henry and William Delafield.

Q. State the condition of Mr. Parish in reference to dress?

A. I think he had his coat, and the usual dress of a gentleman at dinner.

Q. Did any conversation generally occur in the library before dinner?

A. Yes, sir; Mrs. Parish and myself, the Messrs. Delafield, one or both, and occasionally other citizens, ladies, or gentlemen might call; it was always on Sunday.

948 Q. Were strangers received into the apartment in which Henry Parish was?

A. I don't now recollect having met any that could be called strangers; I met many of the neighbors and acquaintance of the family on their Sunday morning calls.

Q. Did it frequently occur that you met there acquaintances, neighbors and persons other than relatives?

A. Yes, sir.

Q. At these visits in the library, what were the subjects of conversation?

A. If a steamer had happened to come recently, we

coursed her news ; the general gossip of the city was frequently the subject. 949

Q. Did you upon these occasions address any conversation to Henry Parish ?

A. As to conversation, I think not ; if I knew anything that I thought he would like to hear, and believing that he could hear very well, I would mention it to him without expecting any answer.

Q. State what the remarks were that you from time to time addressed to Henry Parish, and the subjects ?

A. If any of our mutual friends or my family were absent, I would say if I had heard from them ; the subjects were of that character, telling him I had heard from our friend, so and so, or that our friend so and so, was expected ; that was the amount of it. 950

Q. Did you inform him of the current news of the day ?

A. That was the first topic ; I sometimes found I had been anticipated by the Messrs. Delafield.

Q. Did you communicate to him the commercial intelligence of the city ?

A. I think I did very generally, if there was any change especially.

Q. Did you communicate to him anything in reference to the stock or bond market ?

A. I think I did generally ; what was up and what was down, and what the rate of interest was.

Q. Did you ever address him on the subject of the partnership matters ?

A. I had no occasion to do that, I think. 951

Q. How much of the time that you passed during these dinner visits did you apply to these remarks to Mr. Parish ?

A. They did not occupy much time, because no answer was expected, and I conversed with Mrs. Parish and the others who might be present.

Q. Were your remarks to Mr. Parish renewed from time to time during the visits ?

A. Only as anything new struck me, that I had not previously communicated.

Q. Did he, whilst you were making these remarks, make any gesture of the head or arm, or any sounds ?

952 A. Sometimes he did, and sometimes he did not.

Q. What was the gesture of the head?

A. I don't know that he made any gesture of the head, except when he intended to be affirmative or negative, or when I so construed it.

Q. What gestures of the arm?

A. The gesture of the arm was always such as I have before described; his pantomime was very limited.

Q. Describe the motion of the head which you construed as an affirmative.

A. He nodded sometimes once, sometimes twice.

Q. Why did you construe that motion as signifying an affirmative?

952 A. It was chiefly because it is the pantomime sign of the affirmative, and besides it was taken in connection with the question perhaps; that was a part of it undoubtedly; it was in reply to a question most likely; that was a leading cause.

Q. Describe the motion of the head which you construed to signify a negative.

A. It was a shaking of the head from one side to another.

Q. Why did you construe that motion to signify a negative?

A. Precisely for the same reasons that I construed the nod to imply an affirmative.

954 Q. Were the motions of the head that you have described, made freely or otherwise?

A. I saw no difficulty or restraint.

Q. When you entered the room, was his recognition of you immediate or otherwise?

A. Immediate.

Q. Did you observe that circumstance from the time you first saw him, after his illness?

A. Not so promptly at first; he was very weak and prostrated; I should say within three months, he recognized me very promptly, and he continued to recognize me quite as much so, within one or two years afterwards; he always recognized me afterwards.

Q. At dinner, did he ever by motion or otherwise invite you to take wine?

A. Not that I am aware of; I can't say that. 955

Q. What was his behaviour and bearing at dinner?

A. Quite quiet, eating what was put on his plate and prepared for him, cut up, sometimes with rather too good an appetite as was thought by Mrs. Parish, and she would caution him.

Q. Was there anything in his manner or behaviour, that was disagreeable or unpleasant?

A. No, sir.

Q. Had he any difficulty in helping himself to what he wanted, with his left hand?

A. I think not; he managed his left hand pretty adroitly I thought.

Q. Before his attack, in 1849, had his eye-sight become impaired to any and what degree?

A. It had become considerably impaired I think. 956

Q. Had any surgical operations been performed upon them?

A. I don't know positively, but I think I have heard that Dr. Delafield did perform some operation upon them.

Q. After his attack did the condition of his eyes, from your observation, produce to him any inconvenience?

A. I think not more afterwards than before.

Q. Before his illness did the state of his eyes produce to him any inconvenience, and if so, to what degree?

A. It imposed upon him the necessity of using different kinds of glasses, and after all his vision was perhaps not as perfect as was desirable; but that did not last long; sometimes it was better, and if he took cold sometimes he would be inconvenienced. 957

Q. Did his eyesight improve after 1849?

A. I think it was better sometime after he recovered his strength than before he was attacked even.

Q. Before his attack, did he not at times experience great difficulty in seeing objects?

A. He did, I think, and for which reason I used to walk all the way home with him, from the club to his door, fearing lest he might, from the obscurity of the night, run against some object; he could walk as well as I could, but I feared he could not see well; I think he would not have run against an object in the daytime.

958 Q. Was it, or not, from your observation painful to him to read ?

A. That certainly was the case at times ; I don't think it was long continued at any time.

Q. When you have seen him at Hellgate, have you no recollection of having seen him walking on the grounds ?

A. I have not any such recollection of his walking entirely alone, and yet he might have done it too, and it slipped my recollection.

Q. Have you seen him walking about the grounds with any support, and if so, what ?

A. I think I have always with the support of a servant.

Q. Describe the manner in which he was thus supported ?

959 A. I think the support was on his right side, which was the weak one ; he had no use of his right leg.

Q. Did he lean upon the servant, or did the servant sustain him ?

A. He used a crutch, and the servant seemed to be for the purpose of steadying him.

Q. You have stated in answer to the question, "how was was he prepared for dinner ? that he was brought into the dining-room by the assistance of a servant, do you mean by that expression that he was carried into the room ?

A. By no means ; he was steadied by the servant in the same way as when he was in the grounds.

Q. Was there any cause for his being thus steadied that you know of, other than the paralysis of the right arm and leg ?

960 A. I know of no other.

Q. Can you explain more fully in what manner the servant steadied him ?

A. I think by taking hold of his shoulder ; he afforded him the assistance he required, but the manner I never paid much attention to ; I saw that he was unable to walk without him ; without some assistance.

Q. When you shook hands with him, which of his hands did you take ?

A. I think the left hand.

Q. Was there anything peculiar in his grasp of your hand ?

A. Some time after he was first attacked, his grasp was feeble, very feeble ; but it became stronger, until it did not seem to me to lack strength. I thought it was as firm as usual, and as soft and flexible. 961

Q. When you shook his hand, did he reciprocate the shaking?

A. I think he did. I shook his hand certainly ; our hands moved together. He responded to the pressure certainly, and offered no opposition to the shake. There was no constraint on my part, nor on his.

Q. What was the first occasion on which you recollect that he shed tears?

A. I don't think I could give any date to that, but it was very soon after he was able to sit up, and it so continued, sometimes more freely than at others. 962

Q. Did you upon that or any similar occasion shed tears yourself?

A. I am not certain that I did in his presence, but I did after I left him. I was very much pained.

Q. According to your best recollection, did you not in his presence?

A. It is very possible that I did ; I was very much affected by it.

Q. What was the cause of your shedding tears?

A. It was affliction at seeing him in so deplorable a situation, as I thought.

Q. What, from your observation was the cause of Mr. Parish shedding tears? 963

A. I attributed it both to bodily and mental weakness.

Q. Was he aware of his condition, so far as you could judge on these occasions?

A. It is difficult to tell that, but I think he was aware his condition was a very deplorable one. If he could have been aware of anything, he must have been aware of that.

Q. Did he continue to be aware of his condition during all the time of his illness?

A. So far as I could know or judge, about the same always.

Q. When did you remark, if ever, any great improvement in his physical strength?

A. I think he was as strong within the first two years as

964 he was at any time after his attack ; I mean after the first year, and during the second ; at that time I mean that he was as strong as he ever was after his attack, and prior to his death ; I think that same degree of strength did not substantially continue up to the time of his death ; I thought he had been failing for at least the last year of his life ; I had no means of perceiving much change, and did not ; but his failing was visible for the last year ; I thought so.

Q. On what do you found your judgment that during the last year he was failing, state fully ?

965 A. I gathered it generally from his looks and his personal appearance ; he did not look so healthy or robust ; the expression of his face, complexion, &c., was not so healthy.

Q. Did you observe any other changes than those you have just mentioned ?

A. It does not occur to me now that I did.

Q. Did the changes that you have mentioned appear to affect his interest in what you communicated to him ?

A. I could not see any difference in that.

966 Q. Besides the sound "nin, nin, nin!" was there not some other sound or intonation uttered by Mr. Parish ?

A. There was when the negative or affirmative gesture was connected with it ; that was different from the "nin, nin, nin."

Q. Can you describe the sound which accompanied the affirmative nod of the head ?

967 A. I could not describe it, nor spell it, nor imitate it ; I make the same answer as to the sound which accompanied the shake of the head, and, as I have before remarked, unaccompanied by the nod or the shake of the head, the sound to me would have been the same.

Q. Was your sense of hearing at the time referred to acute or otherwise ?

A. Very much otherwise ; my hearing has been very imperfect for 18 or 19 years ; since I had a fit of sickness in 1837, my hearing has never been good.

Q. In your conversation with him, did you not watch the motions of his head or the gestures of his arm, rather than the sound of his voice, in endeavoring to ascertain whether he comprehended you ?

A. I certainly did, because I could not gather anything 968
from the sound of his voice.

Q. Do you know whether he could or could not read at any time after his attack?

A. I can't know that positively, or pretend to know it positively; I never saw him reading to my knowledge.

Q. With your means of observation, can you say whether he was or was not able to read?

A. I don't know that I can say that he was not able to read; I certainly cannot say that he was.

Q. At the time you recommended the use by him of a dictionary, was not your advice founded on a belief that he could read?

A. It was certainly on a belief that he could see, and if he had mind enough that he could find the words. 969

Q. How often did you recommend the use by him of a dictionary?

A. At least twice.

Q. Did you not at that time believe that that recommendation was judicious, and one that ought to be adopted?

A. I supposed it was good counsel when I gave it.

Q. From your observation of Mr. Parish at that time, and your means of judging, did you not believe that your advice was proper, and such as ought to have been adopted?

A. I certainly thought so, undoubtedly, or I could not have recommended it.

Q. What was the state of his sense of hearing after his sickness? 970

A. I think it was very good, much better than mine.

Q. How are you enabled to state that fact?

A. From his appearing to notice, so far as I could judge, anything that was said in his hearing.

Q. Was he or not able to write with his left hand?

A. I never saw him try, and I never saw any specimen of his performance in that way, that I know of.

Q. Have you never seen any signature of his to any instrument or paper written since his sickness?

A. I have an indistinct recollection to have seen a paper, and I don't know what paper it was, that purported to be

971 signed by him ; I should never have made it out to be his name, and don't know what instrument could have been used in making it.

JOSEPH KERNOCHAN.

Subscribed and sworn before }
me, June 3d, 1856, }

A. W. BRADFORD,
Surrogate.

June 4.—Parties present.

978

Joseph Kernochan, being further cross-examined by Mr. Cutting, says :

Q. In whose possession was the paper of which you spoke at the close of your examination yesterday ?

A. I cannot even recollect that ; the place I saw it was, I think, at my office ; the time of the year or the year I saw it I cannot state.

Q. Did you not speak to Mr. Parish about the necessity of his sending a power of attorney, or some other instrument to be signed by him, to New Orleans ?

A. I think I do remember something about that ; it was in relation, if I remember right, to some City Bank Stock in New Orleans, which bank was closing up ; I have no other recollection than that I think the power was furnished, but whether that was the paper above referred to I do not remember ; I think it was handed to me by one of the Messieurs Delafied, and that I forwarded it to New Orleans ; I have no doubt that I stated to Mr. Parish the necessity of such a power, and also explained it to Mrs. Parish and the Messieurs Delafield ; I had an interest in the same bank, and therefore understood the routine ; I could not attempt to repeat what I said to Mr. Parish about that power, except that I told him the power was necessary ; I don't think that I explained why it was necessary any further than that I was going to do the same myself ; of course, I told him what act was to be done, the closing of the bank, and his getting his share of the distributions, that the charter had expired ; I can't say who all were present when I thus spoke to Mr. Parish on this subject ; no doubt Mrs. Parish was there, and very likely one of the Messieurs Delafield ; I told Mr. Parish that I was making Mr. Conry, our former partner, my attorney, and he was a director in that bank also ; I think I sent that paper to Mr. Conry, at New Orleans ; I have not seen it since, I think not ; I am not absolutely positive as to whom the power was given, but I think it was Mr. Conry, as that was the natural course.

Q. Whom did Mr. Henry Parish appoint his attorney ?

A. I think Mr. Conry, but I am not positive as to that ;

977 this occurrence might have been in the first or second year after his attack ; I think the interest in the City Bank and its effects was remitted to New York ; I know I got mine ; I do not know as to Mr. Parish's share.

Q. Look at the paper now produced—can you say whether it is or is not the same paper that you have above referred to ?

(Mr. O'Connor objects to the question as vague and misleading.)

A. By no means ; I have never seen this paper before.

978 (The paper is marked No. 11.)

Q. Did you refer to the paper sent to Mr. Conry, in speaking of a paper, the signature to which you stated you did not recognize, and did not know with what instrument it was written ?

A. I do not know whether I had that in my mind or not, or whether I had seen more than one which purported to have his signature.

Q. Look at the signature to Ex. 11, and keeping in view the fact that Mr. Parish had no use of the right hand or arm, can you recognize in it any characteristics of his signature ?

979

A. I think none, without making very strong allowances for the difference, in consequence of its being supposed to have been written with the left hand ; I don't see one letter like what would have been in his signature, as it would have been written, before he was attacked.

Q. What was to have been the extent and nature of the power of attorney to have been given by Mr. Parish to you as mentioned in your direct examination, and which you subsequently declined.

980 A. I don't think that was discussed, certainly no limit was mentioned ; the discussion was between Mrs. Parish and myself ; the present object in view was to recover his dividends and rents, and pay his debts.

Q. Did you not understand that you were to manage generally his property and affairs ?

A. I have no reason to doubt that he would have been willing to give me such a power, and that that might be expected from me—and which was one of the reasons for

my declining undertaking a great deal of work for no 981
pay.

Q. Did the conversation between you and Mrs. Parish in respect to this proposed power take place in the presence of her husband?

A. I think it did; I asked Mr. Parish if he was desirous I should take the power; that was all; it was a very short interview.

Q. Did you at that time describe to Mr. Parish what that proposed power of attorney was to be or did you assume that he knew that from what had already been said in his presence, between Mrs. Parish and yourself? 982

A. I neither assumed anything at the time, nor asked what the power or the extent of it should be, nor did I describe its nature or extent to Mr. Parish or Mrs. Parish.

Q. Did Mr. Parish hear the conversation between you and Mrs. Parish?

A. I have no doubt that he heard what was said.

Q. What was the precise question you put to Mr. Parish about the proposed power?

A. I don't recollect the words used, but the purport was to ask him whether he desired I should take his power.

Q. To what power do you refer? 983

A. To a power of attorney of course.

Q. To the one spoken of by Mrs. Parish, or to any other?

A. There was no other in contemplation; I did not refer to any other.

Q. Can you give the exact question you put to Drs. Johnston and Markoe?

A. The words of the question I could not pretend to give.

Q. Can you give the precise language of Dr. Johnston's answer?

A. I would not undertake to give the exact phrases he used.

Q. Can you give the precise language of Dr. Markoe?

A. Dr. Markoe appeared to coincide in the opinion of Dr. Johnston; I don't think he said anything more than that.

984 Q. Did you mention to Daniel Parish that it had been proposed to you to take Henry's power of attorney ?

A. I dare say I did ; I mentioned it to a great many people.

Q. What did Daniel say in answer to your communication on that subject ?

A. I have no recollection that he said anything very decided on the subject ; I communicated it to him and it passed off like other communications ; no conversation ensued on the subject at all.

Q. Had you any other reasons for declining to act as the attorney of Henry Parish, than those which you have mentioned ?

A. I don't recollect all the reasons I have given ; the first reason was, that I was not satisfied as to the state of
985 Mr. Parish's mind, from my information derived from the doctors ; and again, that it might be a very long job involving responsibility in future litigations and no compensation ; no other reasons governed me in declining to take the power than those which I have just enumerated.

Q. Did you not from time to time make out and render to Mr. Parish accounts of rents collected on joint account of yourself and him ?

A. Always quarterly, from his attack to his decease ; those accounts were made out as representing the joint rents ; one of them is now shown me, and it is a specimen, (marked No. 12) ; my check was always sent for the balance, as stated generally to the order of Mrs. Susan M
986 Parish.

Q. Did you explain those accounts to Mr. Parish from time to time ?

A. I did to Mr. and Mrs. Parish in the carriage when they came down.

Q. Did you in or about the spring of the year 1850, or at any other time, speak to Mr. Parish concerning his giving a deed of lands in New Orleans or elsewhere at the South ?

A. I don't recollect the time, but that I did speak to him on that subject I do remember.

Q. State as fully as you can what you said to him ?

A. The other partners interested in those lands in Texas,

Mississippi, and Louisiana, were desirous of closing the partnership interest in them, Mr. Wiley, one of the partners, buying the lands in Texas, Mr. Marshall, another partner, buying the lands in Mississippi and Louisiana perhaps, by which purchases they would be enabled to close the partnership accounts or interests in those lands; at the solicitation of those two partners, and perhaps of Daniel Parish, (though I don't recollect that he did solicit me, but he was interested in the lands) I explained to Mrs. Parish the Messrs. Delafield, and to Mr. Parish the desire of those other partners, and my opinion of the expediency of the thing being favorable to the desired object. 987 988

Q. When you made that communication to Henry Parish, did he by gesture, sound, or otherwise manifest assent or dissent?

A. Whether it was at the first communication or at a subsequent interview, he made a gesture which I inferred to be an assent; it was a nod.

Q. Why did you infer from that nod he assented?

A. Chiefly because I thought it was a very reasonable and proper and desirable proposition.

Q. Go on and state the rest. 989

A. And the nod conforming to my ideas upon the subject I believed it to be an assent.

Q. Was Daniel Parish aware that you intended to speak to Henry Parish on the subject of these lands?

A. I am not certain whether he was aware, before the act, but he was afterwards.

Q. What is your best recollection as to whether he was or was not aware that you intended to speak to Henry on that subject?

A. I have no recollection that he was aware that I was to speak to Henry on that subject; some of the other partners in interest might have done the business as well; and I think the subject had been broken to Mr. Henry Parish, by Mr. Wiley, before I spoke to him on the subject. 990

Q. How soon after your conversation with Henry Parish did you mention the subject to Daniel?

A. I presume the first time I saw Daniel after the conversation; there was no reason why I should have kept it secret.

991 Q. What did you tell Daniel?

A. I suppose I told him what I had done, and that so far as I understood Mr. Henry Parish, he consented or assented.

Q. What answer or remark, if any, did Daniel Parish thereupon make?

A. None that I deemed of any importance, except that he would be glad that that part of the partnership business could be closed, although he did not seem so anxious to have it closed on the terms upon which it was closed as Messieurs Wiley & Marshall, the purchasers.

992 Q. Please to state, according to your best recollection, what Mr. Daniel Parish said in answer to your communication, whether you deemed it important or not?

A. I have stated the only answer I can give, in my answer to the previous question: I have stated all that I recollect upon the subject.

Q. What was done by Henry Parish after he had thus assented, in relation to the lands in question?

A. I knew nothing about that, except that I understood the transaction was consummated.

Q. Give the names of the partners or persons who were
993 interested in this transaction?

A. Henry Parish, Daniel Parish, Le Roy M. Wiley, and John R. Marshall; I don't know what others, if any.

Q. Did you ever see any papers made or executed by Henry Parish in relation to these lands?

A. I have no recollection of having seen any.

Q. Did you in the spring of the year 1850, or at any other time, apply for, or speak to Henry Parish, concerning a satisfaction piece of a mortgage to be executed by

994 him?

A. I dare say I did; I also explained at the same time to the Messieurs Delafield and to Mrs. Parish.

Q. State fully and in detail what you said to Mr. Parish on that subject?

A. I can't give the words used; I suppose I stated the fact or the thing required to be done in as few words as possible.

Q. What was the fact, or the thing required to be done?

A. It was a satisfaction piece of a mortgage, I suppose,

though I don't recollect the particulars of the transaction, 995
nor the mortgage referred to.

Q. On whose behalf did you speak to Mr. Parish?

A. I suppose it was at the request of the mortgagor; I don't recollect his name.

Q. Did you receive the satisfaction piece in question?

A. I think I did not; I believe it was furnished.

Q. When you thus communicated to Mr. Parish what you wanted, did he by nod or otherwise assent or dissent?

A. I only communicated the necessity of its being done, and it was done; I had no assent to get.

Q. Did Mr. Parish on that occasion make any nod or 996
gesture in answer to your communication?

A. I have no recollection particularly that he did, because I had nothing to get; I do not remember particularly that he did not.

Q. Do you recollect whether that satisfaction piece was of a mortgage to the Farmers' Loan & Trust Company, or to Nelson Shook?

A. No, I do not, sir; I do not remember at all.

Q. By whom were you requested to communicate to Henry Parish that a satisfaction piece from him was wanted?

A. I could not say as to that. 997

Q. Did you ever have any communication or consultation with Henry Parish, in reference to the renting of the store No. 54 Pine street?

A. I don't think I ever consulted him on any subject; I only communicated facts to him; expressed my opinion on various matters, as to renting and other things; I do not think that as to the renting of No. 54 Pine street, I ever communicated anything to him, until last December; I may have frequently spoken to him about the rates of the 998
rents of all his property; I was not interested in 54 Pine street, nor 67 Wall street.

Q. Did you not, during his illness, submit to him whether he would take \$1,500 per annum, for 54 Pine street?

A. I don't think I did; Mrs. Parish, in his presence, told me such an offer had been made, and I said I would leave it unoccupied first rather than let it at that price.

999 Q. Did you not address that last remark to Mr. Henry Parish ?

A. Not directly ; it might have been to both of them ; it was audible.

Q. Did not Henry Parish make some nod or gesture, when you addressed him and Mrs. Parish as last above stated ?

A. I think it is very likely he did, although I have no special recollection of it.

Q. According to your best recollection, did he nod or make any other gesture ?

A. I have really no recollection on the subject.

Q. Did you ever accompany Henry Parish to the New York Life and Trust Company, upon business of his ?

A. I have no particular recollection thereof, although it is very likely, for I accompanied him and Mrs. Parish, in the carriage, very frequently to various places, in Wall street.

Q. For what purposes ?

A. Most likely in relation to dividends, but at the request of Mrs. Parish always.

Q. Upon such occasions did Henry Parish assent or dissent to such request ?

A. I think he assented ; he was always glad to have me with him.

Q. Do you recollect going with them to the office of the Sub-Treasurer of the United States ?

A. I think I did once, and only once.

Q. For what purpose ? and state what occurred there.

A. The object was to collect the semi-annual interest on Government stocks ; it was collected ; I think Mr. Parish did not sign a receipt, but that that was done by Mrs. Parish, I think so ; the book, however, was carried out with the receipt upon it by the clerk to the carriage ; I did not follow the clerk, and I think I did not stay until the matter was consummated ; I am not certain about that ; I went for the purpose of identifying Mrs. Parish as the wife of Henry Parish.

Q. Did you not also go to witness his mark, in case it was needed ?

A. I have no recollection that any such thing was need-

ed, but certainly would have been willing to have witnessed it, had it been needed, and I am not positively certain that something of the kind did not take place; it is a long time ago; my memory as to the recent events, within the last 4, 5 or 6 years, is not so accurate as of events 50 years ago.

Q. Do you recollect having accompanied Mr. Parish to the Mechanics' Bank, on business of his?

A. I have no distinct recollection of that, but it is very likely that I did accompany Mr. and Mrs. Parish, in the carriage, to the Mechanics' Bank, if he had any business there.

Q. Did not Mr. Parish own Water Loan stock, the interest on which was payable at that bank? 1003

A. He had an amount of City Loan, the interest on which was payable at that bank, and I think I now recollect accompanying them there to receive interest on that stock; I cannot recollect what occurred on that occasion particularly; I have no distinct recollection that the clerk went to the carriage to speak with Mr. and Mrs. Parish, though it might have occurred.

Q. Do you recollect having gone with Mr and Mrs. Parish to the Fireman's Insurance Company, in Wall street?

A. I think I do.

Q. Did Mr. Parish own any stock in that company?

A. I don't know—I suppose that he did. 1004

Q. What did you go there for?

A. For a dividend, undoubtedly; I could have gone for nothing else.

Q. Did you know before you went there, that he had any dividend to receive?

A. I don't know positively, but it is very likely I did; I knew something about it at the time, but don't now remember what I knew at the time.

Q. Were there not found to be two dividends due to Mr. Parish from that company?

A. Of that I have no recollection.

Q. Do you remember whether Mr. Parish did or not, before stopping at the office of the last named company, make

1005 some gesture or utter some sound which attracted your attention ?

A. I have no distinct recollection of it, although something of the kind may have occurred.

Q. Have you not a recollection of having stopped at that office, by reason of some sound or gesture on the part of Mr. Parish, which indicated on his part a wish to stop there ?

A. I can't say that I recollect any such thing distinctly.

Q. Have you any recollection to that effect, either in relation to the Firemen's Insurance Company or any other
1006 company, office or place ?

A. It appears to me that I recollect, in consequence of some indication on the part of Mr. or Mrs. Parish, or both, that we stopped at the office on the corner of Hanover street and Wall ; I think in the basement story.

Q. State your best recollection whether Mr. Parish did not give that indication ?

A. I think it likely that he did.

Q. Who, if any one, went into the office ?

A. I think I went into the office.

1007 Q. For what purpose ?

A. I inquired if Mr. Parish had any stock there, and they replied in the affirmative that he had, I think.

Q. State what else occurred ?

A. I think they said he had stock there, and that there was a dividend due to him ; that dividend was paid, I think, at that time, either on my receipt for Mr. Parish or on Mrs. Parish's receipt ; there was no making of marks, and Mr. Parish gave no receipt for himself ; I am not quite certain what company it was ; it was a Fire Insurance
1008 Company ; I don't remember the amount of the stock ; I don't remember whether there were two dividends due or not ; if I had ever known before that that Mr. Parish held stock there, I had not recollected it at that time.

Q. Did you not upon that or upon some other occasion, say to Mr. Parish in substance, " I wish you could speak as well as you can do other things, what a pleasure it would be to me ? "

A. I have no recollection of that, sir.

Q. Have you any recollection that you did not ?

A. I don't think I can answer such a question. 1009

Q. Do you remember where you got into the carriage on that occasion?

A. I do not.

Q. Do you remember at the time of getting into the carriage whether Mrs. Parish explained or made known to you the place to which they were going or the object they had in view?

A. I have no recollection of that, but suppose that she did; I got information from no one else.

Q. Look at exhibit No. 10, at the item Little Miami Railroad Bonds, and state whether you did not in the month of June, 1850, or thereabouts, purchase of Underwood & Son first mortgage bonds of that railroad to the amount of ten thousand dollars, or thereabouts? 1010

(Mr. O'Connor objects to this question as irrelevant, and the question is withdrawn. The witness expresses a desire to answer it.)

Q. When Mr. and Mrs. Parish stopped in the carriage at your office, did Daniel Parish ever leave the office and go to the carriage?

A. I have no distinct recollection of any such occurrence, 1011 and yet it might have happened, but not frequently.

Q. Who usually did leave the office, and go to their carriage?

A. Either Mr. Folsom, or myself.

Q. Did Mr. and Mrs. Daniel Parish, or either of them, send any message by you to Henry Parish?

A. I have no recollection of any such occurrence.

Q. After Mrs. Parish informed you concerning the intention to have the first codicil made, did you communicate that circumstance to Daniel Parish before it was 1012 made?

A. I am not certain that I saw Daniel Parish from the time I heard of the intention, till it was made; he was at Newport, and I think I did not see him; that is my best recollection that I did not communicate it to him, because I did not see him; if I did see him, no doubt I would have communicated it to him.

1013 Q. Can you state whether you did or did not write to him on the subject?

A. I don't think I ever wrote to him on the subject; I have no idea that I ever did.

Q. Who was present at the time Mrs. Parish made to you the communication last above referred to, as to the intention to have the codicil made?

A. I think no one except herself and myself.

Q. Was not Henry Parish present?

A. He was not.

Q. Was the communication made to you in confidence or with any request not to repeat it?

A. I did not so understand it, and no such request was made.

1014 Q. State what Mrs. Parish said to you upon the subject of making that codicil?

A. Nothing particular was said except that she had communicated with Mr. Daniel Lord upon the subject.

Q. Can you state with any more exactness than you have just done, what she did say?

A. I cannot.

Q. Can you recollect that she said anything more on that subject than what you have just stated?

A. Nothing further than that, that I recollect.

Q. What did you say to her in answer to any remarks of her's on that subject?

A. I do not at all recollect.

Q. Did you say anything in regard to the selection of Mr. Lord?

A. If I said anything it must have been that I thought him a very proper person.

(The answer is objected to by Mr. O'Connor, as not giving any facts.)

Q. After Mrs. Parish had told you that the codicil had been made, did you communicate that to Daniel Parish?

A. It is very likely that I did.

Q. Is it your best recollection that you did?

A. I think I did, and that he told me he had heard it from Mr. Holbrook, one of the witnesses, before.

Q. Who were there present, at the time Mrs. Parish made this last communication to you?

A. No one, I think, but herself and myself. 1016

Q. Did she make that last communication to you in confidence, or request you not to mention it?

A. I think not; there was no such injunction.

Q. Was anything said in reference to the contents or dispositions of this codicil?

A. I have stated before, I think, that she told me the contents of it, and the document itself conforms to that representation.

Q. Did she say to you before it was made, what its contents or dispositions were to be?

A. Not at all. 1017

Q. When did she first state to you what its contents were?

A. I think the first time I saw her after my return from Newburgh, and after the execution of the codicil.

Q. State particularly what she said to you in reference to the contents of this codicil, and what you said to her?

A. She said nothing in reference to its contents, except stating what they were; I have no distinct recollection of what I said in reply, if I said anything; I certainly said something, but it was of no importance, as I had nothing whatever to do with it. 1018

Q. Did you communicate to Daniel Parish what she had told you were the contents of the codicil?

A. I have before stated that I did, and that he had heard it from Mr. Holbrook.

Q. When you called with Mr. Sherman to see Mr. Parish, where was the latter?

A. I don't distinctly recollect whether he was down stairs or up stairs.

Q. Was he in his ordinary dress?

A. I think he might perhaps have had his dressing gown on the first time we saw him together.

Q. When you and Mr. Sherman first entered the house, who was the first person with whom you conversed?

A. Probably one of the Messrs. Delafield, William or Henry; we were not admitted to see Mr. Parish the first time.

Q. Why not?

1019 A. The doctors were said to have prohibited his seeing any one ; that was the reason given at the time.

Q. How long after that was it that Mr. Sherman and yourself called again ?

A. It must have been after the first of August, we first saw him together ; our first call was on the 20th or 21st of July.

Q. How came you and Mr. Sherman in company on that occasion ?

A. We came down from Newburgh together in the same morning boat.

Q. Did you make an appointment with each other to call ?

A. I have no recollection that we made an appointment,
1020 but we did call together ; I don't recollect whether we left my office together.

Q. How came you to be in company on the second occasion ?

A. We came from Newburgh together, and went directly to his house together, I think, on landing.

Q. When you reached Mr. Parish's house on the second occasion, whom did you inquire for ?

A. The door was opened by a servant, and I think we met one of the Messrs. Delafield in the library ; we did not inquire for any one ; it was known what we came for ; Mrs. Parish very soon made her appearance ; I don't know
1021 that I communicated to her that we wished to see her husband ; she inferred it of course ; I think she invited us into his room, to go in and see him, or probably we would not have seen him ; I think we were taken into his bedroom.

Q. Besides the question stated by you in your direct examination to have been put to Mr. Parish on that occasion, did you or Mr. Sherman say anything else to him ?

A. Nothing beyond an expression of sorrow, perhaps, at his suffering, nothing beyond that.

Q. How long did you continue in the presence of Mr. Parish ?

A. A very short time.

Q. Did you then leave the house ?

A. We might have had some conversation with either of

the brothers Delafield, or Mrs. Parish, out of the sick room, 1022 as to his symptoms or his sickness, but it was all in reference to that.

Q. Did you and Mr. Sherman leave together ?

A. I think so.

Q. You have stated that you were never alone with Mr. Parish except for a very brief period ; did you ever ask or seek to be alone with him ?

A. I certainly never did.

Q. Did you ever give to Mrs. Parish or to either of the Messrs. Delafield any reason to know or believe that you wished to see Mr. Parish alone ?

A. Never that I recollect.

Q. From your observations of Mr. and Mrs. Parish and the Messrs. Delafield, have you any reason to believe that if you had wished to see Mr. Parish alone, any objection 1023 would have been made by them or either of them ?

A. I can't answer that question, it is of so vague a nature ; I can only say that I never was permitted to be alone with him ; whether by accident or design, I have never pretended to say or to think, certainly never to say.

Q. Why did you not ever ask or intimate to Mrs. Parish that you wished to see Mr. Parish alone ?

A. Because I never desired to say anything to Mr. Parish that I was not willing everybody should hear.

Q. Had you never heard until Mrs. Parish told you in the month of December, 1849, that the will had been taken from the box containing Mr. Parish's papers at the bank ?

(Mr. O'Connor objects to the question, as it tends to elicit what he may have heard from persons other than Mrs. 1024 Parish.)

A. I do not recollect that I had heard it before.

Q. Do you know why Mr. Folsom did not communicate to you the circumstance of his taking the will ?

(Mr. O'Connor objects, because it is not proved that Mr. Folsom made the removal, and because his declarations, omissions and motives, are all immaterial. Objection sustained.)

Q. When Mr. Folsom and yourself called with the will at Mr. Parish's house, state what questions you and Mr.

1025 Folsom, or either of you, put to Mr. Parish in reference thereto.

A. I stated that in the direct examination; I asked him if he wanted it; that was the only question that I recollect addressing to him; Mr. Folsom, after the will had been left upon the mantel piece, surrendered, and while I was talking to Mrs. Parish, asked him if he had made any alterations in his will, since that will was made; these questions might have been repeated; some of them were, because the question as to leaving the will, or whether he wanted it was repeated, but I recollect no other questions put by 1026 either of us, other than those or similar ones repeated; there may have been other questions put by Mr. Folsom while I was talking with Mrs. Parish, and that I did not hear.

Q. Did you hear Mr. Folsom put the question to Mr. Parish in reference to any alteration of his will?

A. I did.

Q. Were you observing Mr. Parish at the time?

A. I don't think I was.

Q. Can you then say whether Mr. Parish assented or dissented to Mr. Folsom's question?

A. I am not positive as to my own observation, as I 1027 stated before; Mr. Folsom told me he had given the usual negative sign; whether I got that from my own observation or from Mr. Folsom I will not be certain.

Q. Was it not agreed between yourself and Mr. Folsom, that you would leave the will with Mr. Parish if the latter desired it?

A. I pretended to no control over it whatever, at any time; it was understood that Mr. Folsom would leave it, if Mr. Parish desired it.

Q. What, if anything, was to have been done with the will, if Mr. Parish did not desire it?

A. I really don't know anything about that.

Q. Can you give the words you used when you asked Mr. Parish if he wished the will?

A. I asked him if he wanted the will, directly; I condensed it as much as I could.

Q. Did he make any motion or gesture in answer to that question, if so, what was it?

A. When the question was first put, as stated, he made 1028 the usual negative sign, as I thought.

Q. When the question was repeated to him what motion or gesture did he make ?

A. I think it was repeated to him at the suggestion of Mr. Delafield or Mrs. Parish, and then he made the usual affirmative sign.

Q. When Mr. Folsom asked him concerning any alterations of this will, did he use the term codicil, or inquire whether he had made a codicil to his will ?

A. I think not.

Q. Did Mr. Folsom on that occasion speak to Mr. Parish concerning his, Folsom's, account ?

A. I am not certain whether on that occasion or not, either on that or some other about that time, he did speak to Mr. Parish in relation to his being continued to 1029 be employed and his compensation ; I don't remember the particulars.

Q. Did he put many questions to Mr. Parish on these subjects ?

A. I think he did ; the will matter was disposed of, if it was at the same interview.

Q. Amongst other questions, did Mr. Folsom ask Mr. Parish if he wished to release him from the debt he, Folsom, owed him ?

A. I think he did at sometime in my hearing ; whether it was at that interview or not, I don't recollect.

Q. Did Mr. Parish make any gesture, motion, or sound, when that inquiry was put ?

A. I was not paying much attention to that matter, and 1030 can't say as to the reply.

Q. Did Mr. Folsom ask him if he should draw some money from the bank ?

A. I don't recollect that.

Q. Did you, upon that occasion, talk to Mr. Parish on business, and promise him to have a balance sheet made up ?

A. Before we separated, I think I asked him if he wanted a balance sheet of his books, knowing that it was the usual period of the year for such a thing.

Q. What response did he make ?

1031 A. His response was in the affirmative, I think.

Q. Did you afterwards make out and deliver him the balance sheet?

A. No, I had nothing to do with it; Mr. Folsom did, I believe.

Q. Can you recollect anything else that occurred on the occasion when you and Mr. Folsom called with the will?

A. It is a long time ago; I do not recollect anything else that occurred.

Q. Was Mr. Folsom present when the subject of the balance sheet was spoken of?

A. Yes, I think so.

Q. To whom was the will delivered?

1032 A. I am not certain; I think it was delivered to Mr. Parish, who placed it on the mantle-piece with his left hand.

Q. Do you recollect the first occasion on which Henry Parish entered the office in Pearl street, after his attack?

A. I do not.

Q. Do you remember seeing him in that store on one occasion when Mr. Gaskett or Mr. Suffern, or either of them were present?

A. I do not remember it.

Q. Do you remember any occasion when Mr. Henry Parish looked at any of the books in the office?

A. I remember having noticed Mr. Folsom exhibiting
1033 the books to him on the desk in the office.

Q. What were the books?

A. I do not know; they were mercantile books.

Q. Were you present, and did you hear the conversation between Mr. Parish and Mr. Folsom, or any part of it, when the books were thus exhibited?

A. None that I recollect.

Q. Was anything said in relation to a renewal of a note of Powell & Ramsdell?

A. Of that I recollect nothing now.

Q. Do you recollect about how long a time Mr. Parish was in the office with the books?

A. I do not; his visits were never long.

Q. Do you recollect whether he sat or stood at the desk where the books were?

A. If I am right about his being at the desk, he must have sat on the stool connected therewith; if the books were on the counter, he must have sat on a chair; I don't think he stood in any case.

Q. Was Mr. Daniel Parish in the office on that occasion?

A. I am not sure as to that; I can't say.

Q. Do you recollect that you ever saw Daniel Parish in the office at the same time Henry was there?

A. I think they have met there, but I am not certain of that.

Q. Can you recollect anything whatever that took place between them on such occasions?

A. I cannot recollect.

Q. Did you ever see Daniel shake hands with Henry after the attack?

A. I am not certain as to that, either.

Q. Can you recollect any occasion when he did shake hands with him after the attack?

A. I can't say that I do; I saw them very seldom together; not more than twice I think after the attack, and I am not sure even that.

Q. Do you recollect to have seen or heard Daniel Parish speak to Henry on any occasion after the attack?

A. That must be limited to the number of times I have seen them together; if I have ever seen them together I would have seen Daniel speak to his brother.

Q. Have you any recollection of ever having seen Daniel and Henry together after the attack.

1036

A. I think on one occasion they met in the store, but I am not quite certain of this, it is a very uncertain thing; it certainly is very vague in my mind.

Q. Can you from your own recollection of the fact state whether on that occasion they did or did not converse together.

A. They could not converse together.

Q. Can you from your own recollection of the fact state whether Daniel Parish on that occasion spoke to Henry?

A. I am quite as certain that he spoke to him, as I am that they met, and they are both very vaguely in my mind.

Q. Were you or not aware during Mr. Parish's illness

1037 that checks on the bank were signed by Mrs. Parish and in her name.

A. I think I knew that she drew checks on the bank, but against whose account I don't think I knew.

Q. Were you not aware that during the illness of Mr. Parish, certain securities were purchased in the name of Mrs. Parish?

(Question objected to as calling for hearsay. Question allowed.)

A. I did not know nor was I aware of the fact.

Q. When Mrs. Parish informed you that she had taken stock in the California Steamship Company, did she state it was taken in the name of Henry Parish or in her own name.

1038 A. I got the impression it was taken in the name of Henry Parish; I never had any other idea.

Q. Can you repeat her language?

A. I can not.

Q. What, if anything, did you say in your answer to her statement as to the purchase of that stock?

A. I don't recollect particularly; I said I hadn't taken any, because I did not know enough about it.

Q. When you recommended to her investments on mortgage, did she not request you in substance to advise Mr. Parish to invest in that manner?

A. I have no recollection that she requested me to advise him, because I always did advise him and her to invest in that manner.

1039 Q. Have you any recollection whether she did or did not request you to dissuade Mr. Parish from investing in notes and railroad bonds?

A. I don't recollect any such request.

Q. Did you ever during Mr. Parish's illness dissuade or attempt to dissuade him from investing in notes and in railroad securities?

A. I never had objections to notes if they were good ones, but always spoke against railroad bonds.

Q. Did you speak to Mr. Parish against railroad bonds?

A. Yes, frequently.

Q. Did you ever during his illness dissuade or attempt to dissuade him from investing in notes?

A. Not that I recollect.

Q. You have stated that frequently he was quite irritable, you thought ; state on what occasions you observed this?

A. They were frequent, but as to the particular cause or occasion of it I could not tell.

Q. Describe how he manifested irritability?

A. By violent gestures with his left hand, and terminating generally with a push at Mrs. Parish ; there was nobody present but us there, perhaps.

Q. Did you on those occasions remark the expression of his face?

A. I think I did.

Q. Describe it?

A. It is very difficult to describe ; it seemed to be connected with the gesture of his hand and the operation of the push. 1041

Q. Did the expression of the face concur in or accord with the action of the hand?

A. I think it did to a certain extent ; I might have judged of the expression of the face, from the action of the hand, or otherwise.

Q. Did the expression of the face denote excitement or anger?

A. I think it did.

Q. Did it manifest impatience?

A. I don't know what would be the evidence of that.

Q. Can you not state what occasioned or caused the irritation to which you have alluded?

A. I don't think I can ; it would arise, probably, from Mrs. Parish's failing to understand what he seemed to desire, or misinterpreting his wishes ; that was my inference, that is all ; from my own observation. 1042

Q. Did he show that irritability on any other occasions than those specified in the answer to the last question, and if so, state them?

A. I think not.

Q. Did you observe when his irritability on such occasions ceased?

A. The interview generally terminated upon that ; it became painful and unpleasant to me and I retired.

1043 Q. Did you observe when the irritability commenced?

A. Only by the commencement of the violent action.

Q. On what occasion did that irritability first commence?

A. I think it was generally, as I inferred, in consequence of a misinterpretation of what he desired.

Q. Can you describe the motion or push of the left hand towards Mrs. Parish which you have referred to?

A. It was by laying his hand on her person, and giving her a push, sometimes I thought pretty rudely and strong; it was a pretty strong push, I thought.

Q. Except on such occasions, and under the circumstances you have described, what, after his attack, was Mr. Parish's general manner and deportment as to irritability?

1044 A. I never saw it only under such circumstances.

Q. Except upon the occasions of irritability you have described, what was the general state of his temper after the attack?

A. I could not judge much of it; I knew very little about it.

Q. Is there any other cause than that which you have mentioned to which you can assign the exhibitions of irritability before mentioned?

A. No, not any other; I never saw them except when such causes existed, or appeared to exist.

Q. Explain the reasons why you ascribe the irritability of Mr. Parish before mentioned to the cause you have stated?

1045 A. Because I saw no other cause.

Q. For how many years did Mr. Parish during the summer reside at Hellgate?

A. I don't know how many; a good many; after his marriage, and the Delafields got possession of that property, he spent his summers there up to the time of his death, unless he was absent from the city.

Q. Prior to his illness, what were the terms upon which Mr. and Mrs. Parish lived together, from the time of their marriage?

A. I think as man and wife should live.

Q. Did you ever know or hear of anything whatever interrupting their harmony?

(Mr. O'Connor objects to the question as framed, because 1046 it includes hearsay. The objection sustained so far as relates to hearsay.)

Q. Did you ever know of anything whatever interrupting their harmony ?

A. Never.

Q. What was the degree of intimacy between Mr. Parish and the members of Mrs. Parish's family, prior to his illness ?

A. So far as I know, they were always on friendly terms and in the habit of seeing each other ; I can't tell what the degree of the intimacy was ; I never knew much of it ; I believe there was a good deal. 1047

Q. Did you ever know of any interruption whatever of the intimacy between him and them ?

A. I never did.

Q. Did you ever know of any misunderstanding of any kind between him and them ?

A. Never.

Q. State, from your own observation, what was the conduct and deportment of Mrs. Parish towards her husband, from the time of the attack until his death ?

A. She appeared to be very attentive to him and to his wants.

Q. Have you any knowledge that she ever devoted herself or attended to any other business than in caring for and attending to him ? 1048

A. I have no knowledge about that, I know that she went to church occasionally.

Q. Did you observe her manner towards him during the period of his illness, and if so, state what it was ?

A. As I said before, she was always attentive to him and his wants ; anticipating his wants when she could, so far as I could perceive ; I never saw anything exceptionable in her manner towards him, either before or during his illness ; neither of them were very demonstrative in displaying their feelings.

Q. Did you ever, during the entire illness of Mr. Parish, suggest to him or to Mrs. Parish any change in his mode of living, or as to receiving persons or their intercourse with society, either in general, or particular ?

1049 A. Not that I recollect, at all.

Q. At what age did you become a clerk in the store at Newburgh?

A. In 1799, and I was not 11 years of age, and from that time until I retired from active business in 1833, I was always engaged in commercial business; since then I have been engaged in managing my property, taking care of it, and assisting my friends when I could; I mean my old partners.

Being *examined* by Judge Edmonds, the witness says:
 1050 Henry Parish was worth, in September, 1842, about from \$700,000 to \$750,000; in September, 1842, the value of 49 Barclay street, was about \$12,500; the value of 88 Chambers street, at the same time, was about \$7000 or \$8000; No. 54 Pine street, was then worth about \$25,000; the whole value of 160 Pearl street, was then about \$27,000 or \$30,000; 162 Pearl I would put at the same price at that time; 172 Pearl, at \$33,000, at that time; 124 Water street, at about \$16,000, and 126 Water street, at about \$18,000; I should say the personal property mentioned in the second clause of the will was worth, in 1842, from \$16,000 to \$20,000, but that is very vague.

1051 Being *re-examined* by Mr. O'Connor, the witness says:

Q. Did you ever hear, from any quarter, anything said about any tardiness or delay, or want of alacrity, on the part of Daniel Parish in going to see his brother Henry after the attack in 1849?

(Question objected to by Mr. Cutting, on the ground of hearsay; objection sustained.)

Q. Did you ever hear from Mrs. Parish, or her brothers, or in the presence of any of them, that Daniel Parish had failed in promptitude, or had been tardy in visiting his brother, upon his attack in 1849?

A. I never did.

Q. When Mrs. Parish mentioned to you about Mr. Daniel Parish going into his brother's room, did she state whether

she had said anything to Daniel on that occasion, and 1052
what?

A. She said that before he got into the room, she had stated to him that Mr. Henry Parish was not in a fit condition to be seen; and that she had stated to him when he went out, that she hoped he would not return again, and that she would not permit his visits; she seemed to be a good deal excited when talking on the subject.

Q. You have stated, that you have met persons making calls at Mr. Parish's house on Sundays; please to name them?

A. Mr. and Mrs. Daniel B. Fearing, Mr. and Mrs. Joseph Hudson, Mr. Thomas Suffern, Mr. Charles A. Davis; that 1053
is about all not connected with the family, that I recollect.

Q. You have said that in mentioning the news to Mr. Parish, you sometimes found that you had been anticipated; how did you find this out?

A. By one of the Messrs. Delafield or Mrs. Parish saying they had heard that before.

Q. Why did you make a practice of thus telling the news to Mr. Parish; did you suppose that he would or did understand you?

Mr. Cutting objects to the question as incompetent, and to the last branch as leading. Question allowed. 1054

A. I made the communication because I desired to say something to pass the time, in the first place, being a visitor, and hoping that he might understand it; all my visits there were in the hope of affording some satisfaction; there were very many of them painful, in consequence of his weeping and general feeble state; besides the communication might be news to Mrs. Parish or the Messrs. Delafield who heard them; I did not pretend to form an opinion whether he 1055
could or did understand them, I hoped that he did understand some of them.

Q. You have said that you have rendered accounts of rents, and a specimen has been produced; did you accompany these accounts with any letter or note of advice?

A. Any such were directed to Mrs. Parish, and the check filled up in her favor; where any explanation was deemed

1056 necessary, I accompanied the account with that explanation directed to Mrs. Parish.

Q. Did you ever see Mr. Parish look at or examine any of these accounts?

A. One of the accounts was brought down in the carriage, in consequence of a mistake in addition or subtraction, the next day perhaps after it was rendered; Mr. Parish may have looked at that account on that day; but with that exception I never saw him look at any of the accounts.

Q. Have you any recollection of seeing him look at that account?

1057 A. I think I have; it was produced on Mrs. Parish's lap, or out of her reticule, and he took it in his hand, and looked at it, but he did not point out the mistake, because that had been pointed out by Mrs. Parish; thereupon I took the account, went up stairs, made it right and adjusted it.

Q. Did he read that account or any part of it?

A. I could not find out anything about that.

Q. When you told Mr. Parish about business matters, as you have stated, were you alone with him?

A. Always with Mrs. Parish.

Q. What was your motive in making those business communications to Mr. Parish? Did you at the time suppose that he did or could understand them?

(Objected to by Mr. Evarts, and allowed.)

1058 A. In hopes that he might understand something about them and be interested to pass the time, and I think the answer I gave before as to any motive relative to news, covers the whole ground.

Q. You have said that Mr. Parish frequently purchased Erie Railroad acceptances: is there any choice or distinction affecting choice between railroad bonds or stocks and railroad acceptances?

A. I think so; the acceptances are short, the bonds are long, and the remedy doubtful.

Q. Did you in respect to Mr. Parish's hearing or appearing to hear what passed in his presence, notice any difference in his conduct between the cases where one or two or a greater number of persons were speaking?

A. Very little, if any ; if they talked loud and seemed to be disputing, he was perhaps a little more regardful of what was going on.

Q. Do you remember ever going with Mr. and Mrs. Parish anywhere down town in the carriage without being requested by her to go—to go to some particular place ?

(Objected to, as leading—allowed.)

A. I never volunteered ; I am not certain whether it was always stated before we started, the place we were going to.

Q. Did Mrs. Parish ever invite you to go into the carriage and take a ride with them simply ?

A. Yes ; she once brought me up town to my own house and left me there ; I don't remember any other instance.

Q. On the day that the carriage stopped at the corner of Hanover and Wall streets, what invitation was addressed to you to go into the carriage ?

A. Generally to go into Wall street to collect a dividend or dividends.

Q. You have said, upon your cross-examination, that it is likely, Mr. Parish gave some indication at or before that stoppage : Did you see or hear, or do you know the fact that he gave any indication at that time ?

A. I thought so ; and the carriage was stopped accordingly.

Q. Who directed the carriage to stop ?

A. Either Mrs. Parish or myself, I am not certain which.

Q. What motion, sign or gesture did Mr. Parish make on that occasion, that you now remember ?

A. I think he put his hand out of the window in the direction of the corner of Hanover and Wall streets.

JOSEPH KERNOCHAN.

Subscribed and sworn before }
me, June 4th, 1856, }

A. W. BRADFORD,
Surrogate.

Exhibit No. 11.

1061

Know all men by these presents, that I, Henry Parish, of the city of New York, have made, constituted, and appointed, and by these presents do make, constitute, and appoint Susan M. Parish, my true and lawful attorney, for me, and in my name, place, and stead, to sell, assign, and transfer all loans of the United States, or of the State of New York, or any other State of the United States to me belonging, and also to sell, assign, and transfer any bank stock, bonds, or other securities to me belonging, whether of this State or any other State of the United States; and also to sell, assign, and transfer all stock to me belonging of any insurance company, or trust company, or corporations of this or any other State of the United States, giving and granting unto my said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as I might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that my said attorney or her substitute shall lawfully do, or cause to be done by virtue hereof. ¹⁰⁶²

In witness whereof, I have hereunto set my hand and seal the 12th day of Sept., in the year of our Lord one thousand eight hundred and fifty.

1063

H. PARISH.

Sealed and delivered }
in the presence of }

WM. DELAFIELD.

UNITED STATES OF AMERICA, }
City and County of New YORK, } ss. :

Be it known, that on the twelfth day of September, one thousand eight hundred and fifty, before me, Stephen Merrihew, a public notary, in and for the State of New York, duly commissioned and sworn, dwelling in the city of New York, personally came William Delafield to me well known, who being by me duly sworn, deposed: that he knew Henry Parish, the individual described in and who executed the foregoing letter or power of attorney,

1064 that he saw the said Henry Parish execute the same, and heard the said Henry Parish acknowledge the above letter of attorney to be his act and deed, and the deponent thereupon subscribed his name as a witness thereto.

In testimony whereof I have hereunto subscribed
L. s. my name, and affixed my seal of office, the day
and year last above written.

STEPHEN MERRIHEW,
Notary Public.

(Marked)

No. 11.

A. W. B.

Exhibit No. 12.

1065 H. Parish, Esq. Rents. 1st Feb'y, 1852.

172 Pearl street.....\$600 $\frac{1}{2}$ is.....\$200

160 Pearl street..... 550

162 " " 550

124 Water " 300

126 Water " 400 900

\$1,800 $\frac{1}{2}$ \$1,100

Paid Insurance 172 Pl. St..... \$60 $\frac{1}{2}$ is....\$20

Paid repairs cellar floor, water-closet,
&c., &c., 124 Water Street..... 110 12

Paid for repairing hoist wheel, rope,
&c., and sundries, 126 W. St..... 17 69

Paid for repairing roof, &c., 160 and

1066 162 Pl. St..... 2 00

\$129 81 $\frac{1}{2}$ is..64 90

\$81 90

Balance.....\$1,015 10

My check for.....\$1,015 10

E. E.

New York, 2d Feb., 1852.

JOSEPH KERNOCHAN,

(Marked)

No. 12,

A. W. B.

June 5, 1856.—Parties present.

1067

Joseph Kernochan, being further examined by Mr. O'Connor, says :

Q. When on the occasion of the stoppage at the corner of Wall and Hanover street, do you remember for what purpose, or to go to what place you first entered the carriage ?

A. It was to accompany them to collect dividends; and at that early period of Mr. Parish's illness, and before Mrs. Parish had his power of attorney, I gave receipts for those dividends, "Henry Parish, by J. Kernochan;" at the offices they knew me very well, and that I was responsible, and 1068 they were willing to take these receipts; I gave many of them during the first year perhaps; I think I was almost always accompanied by Mr. and Mrs. Parish; I do not recollect whether on the occasion in question any particular place was indicated before we started, but that was the first place we stopped.

Q. Did Mrs. Parish or either of the Messrs. Delafield ever inform you of any other dispute, difficulty, or unpleasantness with Daniel Parish except the one you have mentioned, when he went into his brother's room against her wishes?

A. I do not recollect any other.

Q. You have mentioned the circumstance of Mr. Parish 1069 pushing his wife; did you ever witness, on his part toward her or any other lady, any pushing of that sort, or any rudeness of any kind in act or word, prior to his attack in 1849?

A. I certainly never did; Mr. Parish was certainly a high minded gentleman, and would never do any act unbecoming a gentleman; he had a great deal of self-respect and great command of temper; I never knew him do anything under excitement.

Q. Between the time that you left Mrs. Parish, with the understanding about your taking the power of attorney and your giving her your answer declining it, had you any conversation with, or did you say anything to Daniel Parish about that—on that subject?

1070 A. I have no recollection of any such, and do not recollect that I saw him in the interval.

Q. What was the state of Mr. Parish's mind from your own observation at the time you had under consideration the taking of the power.

(Objected to by Mr. Cutting as incompetent, and allowed.)

A. I had arrived at no decided opinion at that time; the state of my mind on that point was one of great doubt and uncertainty; up to that time I had seen very little of him, and could know very little about him; I mean after his attack.

Q. When the carriage came to the store, did the man always come with a message for some person to go down and see them?

A. There were two men always with the carriage, and 1071 one of them came up and said Mr. or Mrs. Parish desired to see Mr. Kernochan; I was almost the only one sent for, sometimes it might have been Mr. Folsom.

Q. Was Daniel Parish ever sent for in your hearing?

A. Never.

Q. Was Daniel seldom or often there?

A. He was often there when they called.

Q. You have been examined in relation to your advice to Mrs. Parish, to cause Mr. Parish to use a dictionary and to write with his left hand—please to state as fully as you can your object and motives in giving that advice?

1072 (Question objected to by Mr. Cutting, as incompetent—allowed.)

A. I thought by that means, if resorted to, we would get more readily at his wishes or desires, of which we were frequently in doubt, and it would be an evidence of how much he knew.

Q. You have been inquired of about a balance sheet being spoken of at the house on one occasion in the presence of Mr. Parish—please to state, if you can recollect, by whom that idea was originated, and how and in what part of the house it was first suggested?

A. Thinking over the matter last night, I remember that matter took place at the interview when the will was sur-

rendered ; after we had got through with that matter, Mr. 1073
 Parish made the usual sign of desiring something which we
 failed to discover—could not find out after many trials ;
 Mr. Folsom and myself were leaving the room, when it
 occurred to me Mr. Parish might want this balance-sheet,
 it being the season usual for making it out, June and July ;
 I mentioned that to Mr. Folsom, returned and asked Mr.
 Parish if that was what he wanted, to which he gave the
 usual sign of assent by a nod.

Q. Do you now remember whether when you returned
 to Mr. Parish on that occasion, he was still keeping up this
 kind of sign of desiring something ? 1074

A. I think not ; it had been given up.

Q. Was it a circumstance of rare, or of frequent occur-
 rence that after many trials you or those present gave up
 further trials, without supposing his desire to have been
 discovered ?

A. That frequently happened.

Q. In September, 1842, do you know at what figure Mr.
 Henry Parish himself estimated the value of his whole
 estate ?

A. I do not.

Q. From the condition of his affairs, and the estates and
 assets in which he was interested, was the amount of his 1075
 estate a matter on which you could at that time form a very
 proximate judgment ?

A. It was not in a condition that any one could form a
 very proximate estimate, because it was very much scat-
 tered in country debts, and the U. S. bankrupt law had been
 recently passed, which, it was generally supposed would
 sweep a large portion of the outstanding debt ; a consider-
 able amount was in lands new and unproductive, to which
 no approximate value could be affixed by any one at that 1076
 time, for it was a peculiarly depressed moment to dispose
 of his unproductive property ; hence in my estimate given
 of his property at that date, it might very well have pro-
 duced \$100,000 more than my estimate, but could not have
 been under it.

Q. Did you, in making that estimate, take into view what
 was likely to come to him from his father's estate ?

A. I do not recollect whether that passed through my

1077 mind or not,—but I had no idea of including it in my estimate of his estate.

Q. In 1847-8-9, what was the condition of Mr. Parish's estate, in respect to the practicability of forming a more accurate judgment or proximate estimate of its value than in 1842?

A. By that time most of the debts had been collected or given, and consequently, if I had looked at his books (but I did not, however,) I could have made a much more proximate estimate of the value of his estate.

Q. You have spoken of making some application at the 1078 house in Union Square for a power of attorney, to do some bank business in New Orleans; did you expect to get that power when you made that application?

A. I did not expect to get anything done when I applied for it; I never applied for anything that was not proper and necessary to be done, and I knew that it was so. The document would be furnished afterwards, under the supervision of the Messrs. Delafield, who would go to the proper law office and have it done.

Q. In 1825, when Mr. Henry Parish retired from the firm, did any other partner retire?

1079 A. Yes, Mr. Holbrook.

Q. Did Mr. Holbrook afterwards return into the firm?

A. No, sir, never. He proposed, however, continuing in the firm in 1825, I wanting to retire also, but Mr. Daniel Parish refused to continue the business if I retired. I understood that he refused to continue to be associated with Mr. Holbrook alone, or to continue the business without me or his brother Henry.

Q. From that time to the death of Mr. Holbrook, what 1080 were the relations between him and Daniel Parish? were they cordial and friendly, or otherwise?

A. They were not cordial or intimate, but I never knew any cause of quarrel.

Q. You have spoken of a purchase by Daniel Parish of real property on Murray Hill; what was the amount of that purchase, and about what time was it made?

A. The amount I never knew exactly, or proximately, perhaps; perhaps about ten thousand dollars, or more: that was in 1842 or 1843.

Q. About what time was that transaction closed and the 1081 property sold off?

A. I should say from 1850 to 1852.

Q. What were the domestic habits of Mr. and Mrs. Daniel Parish in respect to the frequency or infrequency of having parties at their house, or attending them elsewhere?

A. Mr. Daniel Parish is a remarkably domestic man, I think, and they have a large family, to which Mrs. Parish devotes her time and attention, and is consequently very domestic; they have never been much in the habit of going to, or giving parties.

Cross-examination by Mr. Cutting :

1082

Q. Nothing having been said about a balance-sheet to Mr. Parish until after you and Mr. Folsom were leaving the room, at which time it occurred to you—please to state what led you to think that it was the balance-sheet that Mr. Parish wanted?

A. Almost every other subject had been exhausted by previous inquiries, and that being the period for a balance-sheet, it struck me as possible that might be the thing aimed at.

Q. Please to state, as nearly as you can recollect, what the other subjects were, that had been suggested to Mr. Parish?

A. I can't recall any of them to my memory,—nor can I suggest the nature of these subjects; I think they were various. 1083

Q. What response, if any, did he make to these other subjects of inquiry?

A. Always by shaking his head as a negative, that we were not on the right track.

Q. Did he upon that occasion manifest any impatience when these other subjects were suggested to him?

A. I do not recollect on that particular occasion; always when we failed to discover, he would manifest some impatience towards the last.

Q. When you returned and suggested to him the balance-sheet, did he manifest any satisfaction?

1084 A. So far as he was capable of it, I think he did.

Q. How did he denote it ?

A. By nodding his head two or three times, instead of once, in the affirmative.

Q. You have stated that it frequently happened, after various trials, you or those present gave up further trial, without supposing his desire to have been discovered ; did he, upon these occasions, or any of them, himself give up the attempt to obtain the proper inquiries ?

A. Yes, certainly.

Q. How did he manifest or denote that ?

1085 A. By ceasing altogether to make the usual gestures ; he gave it up and finally sank into a state of inaction.

Q. Describe as nearly as you can the action and manner of Mr. Parish denoting that he gave up the attempt ?

A. That is very difficult to answer or describe ; he would perhaps cease to look at us, cease to regard us.

Q. Was it accompanied by any action of his head, body or limbs ?

A. By cessation of action I think ; he might sink down, say, showing, as I thought, that he gave it up.

1086 Q. Do you know at what amount Mr. Henry Parish estimated his property in 1842 or 1849 ?

A. I do not know as to 1842, and I am not certain I know as to 1849, I having heard him talk about it, and he put some of his property so low that his estimate in 1849 would have been below the value of his estate ; he put down all his stocks, including government stocks, at cost, when many of them were worth from 15 to 25 per cent. above cost ; his Union Square property he valued, as I understood, at \$60,000, in his estimate of property, when

1087 it certainly cost from \$110,000 to \$120,000 ; I do not know what the sum total of his estimate in 1849 was

Q. Since your cross-examination when Ex. No. 11 was shown to you, have you remembered or seen any other paper purporting to have on it the signature of Henry Parish since his illness ?

A. I have seen more papers purporting to have his signature attached, of a date after his illness, since I have come into court, than I ever saw before.

Q. How many of such papers have you seen, and in 1088 whose possession?

A. I have seen the two satisfaction pieces produced here by Mr. Day, and the power of attorney; I have a faint recollection that I had seen one paper, purporting to have such signature before, but I don't know what the paper was, or whether the power sent to New Orleans bore a mark only or a signature.

I now do not remember seeing any other such paper than those as aforesaid.

(Mr. O'Connor objects to all evidence in relation to the papers stated by the witness to be in the possession of Mr. Day.)

Q. At what time did you make up your estimates of the value of the property of Henry Parish, mentioned in your 1089 examination?

A. I always had it in my mind, and when you refer to any date, I give my best remembrance as of that date: it is not now made up from consulting any books; the balance sheet I have spoken of, was the only balance sheet of his I ever saw.

Q. Were not the accounts that were made out in the name of Mr. Parish delivered at his house, under cover?

A. I think I generally enclosed them in an envelope, directed to Mrs. Parish.

Q. Excepting the account you referred to as having been brought to the office the day after it was rendered, do you recollect any instance, when you were present, when the accounts were shown to, seen, or received by Mr. Parish:

A. I do not now recollect any such. 1090

Q. Did you ever personally hand an account to him?

A. I don't recollect any such thing.

Q. Look at the paper now shown you, and state whether it is in your handwriting or not?

A. It is in my writing. (Marked Ex. 13.)

(It is offered in evidence.)

Being examined by Judge Edmonds, the witness says

Q. You spoke of the effort to get at Mr. Parish's meaning, and that that was by suggestion made to him—what was the character of those suggestions?

1091 A. It is impossible to say now; they were everything one could think of; they covered the whole ground of conjecture.

Q. By whom were they made?

A. By Mrs. Parish sometimes, and sometimes by me.

Q. Ever by any other person in your presence?

A. If it took place at the house, and either of the Messrs. Delafield were present, they would add their ingenuity to the extent of conjecture.

Q. Was the object of these suggestions simply to find out what he wanted?

A. So far as I knew, altogether.

1092 Q. In any of these efforts of suggestion, was any mention made to him of his sisters, or either of them?

A. I have no remembrance of any such occurrence.

Q. Or of his brothers, or either of them?

A. I have no remembrance of any such occurrence.

Q. Or any of the children of his sisters, or either of his brothers?

A. I make the same answer.

Q. Or of any disposition by will of any of his property?

A. Never.

Cross-examination by Mr. Cutting:

Q. Had you any motive in not suggesting to Henry Parish the names of his sisters or brothers, or the children?

1093 A. I think I had.

Q. What was it?

A. It was that I supposed it would not be agreeable — desirable to Mrs. Parish.

Q. Had you any other motive than that?

A. No other.

Direct examination by Mr. O'Connor:

A. When you wrote and sent Ex. No. 13, did you expect or intend that Mr. Parish would read it?

(Objected to by Mr. Cutting as incompetent. Allowed.)

A. I did not know or perceive till now that the note was addressed to Mr. Parish; I am satisfied that I intended it

for the benefit of Mrs. Parish; I did not expect that Mr. 1094
Parish would read it; I am certain of that.

JOSEPH KERNOCHAN.

Subscribed and sworn before }
me, June 5th, 1856, }

A. W. BRADFORD,
Surrogate.

Exhibit No. 13.

My dear Mr. Parish,—Herewith you have list of matters
to be attended about the 1st June. If you will send me 1095
the papers I will attend to your collections with much
pleasure. I have been much occupied this week with
various matters, and have not seen you, which I regret.

Yours most truly,

JOSEPH KERNOCHAN.

May 31, '50.

(Marked)

No. 13.

A. W. B.

1096 Mr. O'Connor calls—

George W. Folsom, who being sworn, says: I reside in the city of Brooklyn; am 46 years of age, and my occupation has been that of a book-keeper in former years; I am at present the agent and attorney of John R. Marshall & Co., of New York and New Orleans, in the dry-goods business; I knew Henry Parish, deceased; I first became acquainted with him in November, 1834; I was then first employed as a clerk in the house of Parish & Co., I believe; I remained in that house not over two months; I subsequently went with William A. Beecher & Co.; I subsequently in 1097 November, 1838, was employed by W. & J. Gasquet & Co., of New Orleans, whose agency office was at 126 Water street, New York, where Mr. Henry Parish made his business head quarters; I continued with W. & J. Gasquet & Co. three or four years; on my entering with them Mr. Henry Parish having his books there I offered, if I could be of any service to him I would gladly be so, making no mention of pay; I did attend to his books gratuitously; I subsequently did some little business on my own account, and at the same time attended to the books of Henry 1098 Parish, and remained in that office until this time, except that the office was subsequently removed to Pearl street, where I also went; some eight years ago I took the agency here of the house of John R. Marshall & Co. at New Orleans; Mr. Kernochan, Mr. Daniel Parish, and Mr. Henry Parish, have always been in the same office with me up to that time, meaning November, 1838.

Q. Did you at any time, and when, become intimate with Mr. Henry Parish?

1099 A. I did in November, 1838; the acquaintance commenced then, and our intimacy was the growth of years; I don't mean by that, that I visited his house upon equal terms; but I mean a friendly intimacy.

Q. When did you begin to keep his books?

A. In December, 1838.

Q. Up to what time did you continue to keep them?

A. Up to about January, 1850.

[The questions addressed to the witness by Mr. O'Connor

will refer to a period prior to the attack in 1849, until the 1100 contrary is indicated.]

Q. Was Mr. Henry Parish in the habit of keeping a supervision over, and daily examining his books and accounts ?

A. He was.

Q. What were his habits in reference to the occupation of his time, so far as they fell under your observation ; was he much at home or otherwise ?

A. As far as his habits came under my observation, which embraced generally between the hours of 9 A. M. 1101 and 3 P. M., but frequently until 5 or 6 P. M., his forenoons were devoted to looking over his books, and the ordinary occupations of a man having money to invest, and general matters to attend to ; in the afternoon he most frequently sat in the office, and conversed freely with whomsoever was present, never, however, neglecting to attend to all business requirements first ; he was very methodical, even tempered, never showing any change of disposition, and I can say that through my whole acquaintance with him I never had one unpleasant word with him ; I never saw him after he left the office for the day, at least not frequently, and I 1102 only knew of his habits after that from what he told me ; one day he remarked to me, just before leaving the office, that he was going home to dine ; I then asked him where he was going after dinner ; he remarked " to the club ;" I then asked him what time he would probably get home ; he said " about one o'clock," and gave me to understand that such were his general habits, or was the course he pursued almost every night ; I would explain here, if permitted to do so, the cause of this conversation ; his so frequently staying in the office so late when there was ap- 1103 parently nothing to attract him there, made me think that his love of home was much less than mine, as my first desire always was, so soon as I could leave the store, to go home : And the liberty I had always taken and been allowed to talk upon all such confidential matters with him.

Q. What was the state, condition, and character of Mr. Henry Parish's mind ?

A. I don't know hardly how to answer that, except by

1104 saying such as the mind of a man in good health and of sound reason should be.

Q. What was the degree of his judgment and strength of mind ?

A. Much above the ordinary.

Q. Did you, and how frequently, see him and his brother Daniel together ?

A. I have always seen them together, that is, every day when they visited the office, which they did almost every day.

Q. What were the relations subsisting between them ?

1105 A. Perfectly amicable ; they conversed together upon business-matters usually.

Q. Did you ever learn from Mr. Henry Parish anything about the contents or provisions of his will ?

A. I never did.

Q. Did you, and how early, from any observation of your own, know that he had made a will ?

A. The precise date I do not remember, but it was soon after the will was made.

Q. Where, or in what closet, chest, or trunk, or other thing, did Mr. Parish keep his important papers ?

1106 A. In a tin trunk or box, marked "Henry Parish ;" and the box was kept in the Phoenix Bank when not wanted for business purposes.

Q. Had you access to that box, and if so, how, in what way, and for what purpose ?

A. I had access to it at all times when any document was required on which I had to act ; I would go to the bank, ask the porter for it, and open and take out the document wanted ; the key was kept in a drawer in the office, to 1107 which I had access ; this course was known to Mr. Parish always, and permitted by him ; this habit of mine of going to the bank without his special request was much more common of later years than in the beginning of our acquaintance or connection.

Q. Do you know where he kept his will ?—state it.

A. Yes, sir ; he kept it in that tin box.

Q. Was it open or in an envelope and sealed ?

A. It was in an envelope, sealed and superscribed, I believe, "The will of Henry Parish."

[Mr. O'Connor now proceeds to inquire concerning the attack, and the period subsequent to it.]

Q. When and where was Mr. Parish attacked in the summer of 1849?

A. He was attacked on the 19th of July, 1849, about 10 or 11 A.M., at the office of Prime, Ward & King; this is from hearsay.

Q. Had you seen him that day before the attack?

A. I saw him that morning about 9½ A.M., at the office 162 Pearl street.

Q. Did you ever afterwards see him well?

A. No.

1109

Q. How soon after that morning did you see him at all?

A. I saw him about five weeks after, on the 25th of August, at his house in Union Square; I heard of the attack soon after the hour I have named as the time of the occurrence.

Q. At the time of the attack were there any accommodation notes, or notes for temporary loans of Mr. Parish, running on the New York banks; if so, how many, and for how much, and who were the parties as makers or endorsers thereon?

A. Yes; there were; I remember but two—one payable to the Phenix Bank by Henry Parish, I think, and endorsed by Joseph Kernochan, I think, but am not positive; the amount I believe was \$50,000; another of the same character, signed and endorsed by the same parties, was payable to the Bank of the State of New York for \$40,000.

1110

Q. In what way were these notes made payable, and at what interest?

A. I don't remember.

Q. Please to state who attended to the renewals of these notes, what way the funds were provided and payments made on them, and when they were finally paid.

1111

A. I do not remember that they were ever renewed; I received the rents, collected the interest, and so forth, after Mr. Parish's attack, as I had done before, when he did not attend to it himself; I handed them over to Mr. Kernochan, who endorsed all paper that was necessary to be endorsed by Mr. Parish, "Henry Parish, by Joseph Kernochan," and he or I made the deposits of those moneys in the

1112 Phenix Bank to pay that note, which note was paid up in full previous to the 1st of January, 1850; in regard to the other note, I think it was paid off to the best of my recollection in January and February, 1850, by a similar process; on looking at the bank book, I find the last payment on the \$40,000 was made 4th May, 1850.

Q. After Mr. Parish's attack, had you any intercourse or correspondence with any persons in relation to the custody or removal of his will and in relation to the custody or removal of the tin box?

1113 A. Yes.

Q. Please to state in the order in which they occurred, as far as you can remember, all the facts in relation to any removal of the box, or of the will, and your transactions with any person or persons on these subjects.

A. Between the 12th and 20th of August, 1849, either Henry or William Delafield left word at our office, 162 Pearl street, that he wished to see me at his office; I went there, saw him, and he told me that Mrs. Parish wished me to send up Mr. Parish's trunk to the house as he wanted it; the question came upon me quite unawares, and I felt undecided how to act; I said to Mr. Delafield, "Mr. Parish's will and all the evidences of his property are in that trunk, and I don't know that I ought to give it up," or words to that effect; I said that I must decline giving it up at present; I then left; after arriving at my office, I re-considered the matter, went to the Phoenix Bank, took out the will from the trunk and put it in my pocket; I brought the trunk to our office, and then sent word to Mr. Delafield that if he would send a written order for it, he could have the trunk, or words to that effect; his answer came back
1114 to me that Mr. Delafield declined sending any such order;
1115 I then took the trunk back to the bank, keeping the will in my pocket; the next day I returned the will to the trunk, and there left it; on the 25th of August, Mr. Delafield called at our office, and handed me an order requesting that the trunk should be sent up to Mr. Parish's house; that order was written in the body of it evidently by a female, in female handwriting, and signed "Henry Parish;" that signature was somewhat like Mr. Henry Parish's signature, but very much distorted; it still had some resemblance

to his signature ; I immediately took that order up to the 1116
 Phoenix Bank, handed it to Mr. Ogden, the cashier, and
 asked him if he would deliver the trunk upon that order ;
 he said "yes," if you will say it is his signature ; I told
 him I could not say anything about it ; he must be his own
 judge in the matter ; he then said "well, I suppose I will
 send it up, or I must send it up ;" I told him he need not
 take any responsibility about it, or words to that effect, as
 I would take it up myself ; I then took it up to Mr. Pa-
 rish's house ; was admitted to the presence of Dr. Delafield
 and Mrs. Parish ; I put the trunk down in one corner of the 1117
 room ; the immediate first conversation I do not recollect ;
 Mrs. Parish then asked me if I had the key of that trunk ;
 I told her I had it. I then asked to be admitted to see Mr.
 Parish. She asked me my motives in wishing to see him.
 I told her they were of a general character—in the first
 place as a friend, and then to judge of his mind and health.
 She refused me admittance, on the ground, or stating, that
 any business matters brought before Mr. Parish irritated or
 excited him very much. She said he was fretting very
 much about some papers in his trunk, and she thought it 1118
 very hard the man could not have his own way, or words
 to that effect. I think these were the exact words. I told
 her if she would let me go and see him I could then judge
 of his soundness of mind or capacity for business, or would
 judge rather ; and if I thought him of sound mind, would
 then act as circumstances would require. She said, "I am
 placed in a very trying situation, with no one to advise with
 on the subject, and not even my brothers will give me any
 advice." I said to her that if Mr. Parish was fretting about
 some papers in his trunk, or business matters, I should go to
 him in the character of a physician, and would be able, no 1119
 doubt, to ease his mind upon that subject ; and as to her
 being placed in a trying position, without advice from any
 one, I thought she need not be placed in that position, as
 she had abundant means to secure the best legal advice in
 the city.

I then said, "Mrs. Parish, I know what you want ; you
 want this property (I meant the Union Square property) ;
 she said "Yes, and I understand you (meaning me) have
 said to Mr. Kernochan that Mr. Parish had so expressed

1125 I immediately altered the words of the questions, by saying, "in case of your death, do you wish to give this property to your wife," or to "Mrs. Parish," I forget which were the words I used ; he made a nod of the head, and to the same question put in relation to the Wall street property, he made the same motion of his head, a nod ; there had previously to this, during this interview, been some conversation between Mrs. Parish and myself, as to the Barclay street and Chambers street properties ; I then suggested to her to ask him in relation thereto ; she said to Mr. Parish, 1126 "did you not in your will give me the Barclay street property ;" he made a negative movement of the head ; she asked the same question in relation to the Chambers street property, the same answer followed, the same negative movement of the head followed ; she then varied the form of the question ; the exact manner I do not recollect ; and his reply was an affirmative nod of the head ; Mrs. Parish and myself then rose from the interview, and I said to Mrs. Parish, in words as near as I can recollect, "I consider Mr. Parish to be of unsound mind, and incapable of transacting business." I should have put in there, to make it a direct, and straight 1127 forward narrative, that, from his contradictory answers, I thought he could not understand questions ; or if they were understood by him, he was incapable of giving direct answers, and thereby incapable as above to transact business.

I then made a motion to leave, and went towards the trunk for the purpose of taking it up, when Mrs. Parish remarked, "it is not necessary to take it to the bank—we shall want it again soon." She said, "I will put it in our safe, where it will be as safe as in the bank." My reply to her, to the best of my memory, was, that I had had charge 1128 of the trunk so long and during his illness, and from the fact of the will and all the evidences of his property being in that trunk, I did not wish to leave it and let it go out of my hands or control, until it was taken from me by some process of law, or till I was satisfied of Mr. Parish's soundness of mind, or until it was taken from me for good, or entirely, or words to that effect. I then took the trunk, brought it back to the Phoenix Bank, and said to Mr. Ogden, the cashier, in presence of Mr. Tileston, the president, that I wished to make a deposit of that trunk, and did not

wish it delivered to any one but myself. Mr. Ogden said 1129 to me, in substance, and I think in these exact words, "I receive this trunk from you in deposit for safe keeping, and will not deliver it to any one but yourself." I then left it at the bank. A few days afterwards, I learned or heard that Mrs. Parish had produced a will, or copy of a will, and that a codicil had been added to it by Mr. Parish, giving her the Union Square and Wall street properties. On the 12th of September, being at the Phoenix Bank, I heard from one of the clerks that Mrs. Parish had obtained the trunk. I immediately waited on Mr. Ogden, the cashier, who confirmed the fact. I said to Mr. Ogden that I 1130 thought he had done wrong in giving it up, after the promise he had made to me. His reply was, an acknowledgement that perhaps he had, but he remarked, "What could I do," or "how could I act? Mrs. Parish called here with Mr. Delafield, and told me that Mr. Parish wanted his trunk, to see about his taxes," or words as near these as I can possibly remember.

(Mr. Cutting objects to the preceding testimony, from the words "confirmed the fact" to the words "possibly remember," inclusive.)

I then informed him, or rather, the next day I informed 1131 him, that I should in a few days want the trunk for business purposes, and should look to him for it. He said, "Well, when you want it I will send for it, or will send an order for it." On the 21st of September I called at the Phoenix Bank again, and told Mr. Ogden that I should want the trunk the next day, at 12 o'clock. He said, in effect, that he would send for it. The next day, I called at half-past 11 o'clock, and was told by Mr. Ogden that the trunk was returned on the same day it was taken away. On the fourth of October following, I went to Mrs. Parish's house and saw 1132 her, and to a request from me to be allowed to see Mr. Parish, or words to that effect, she informed me that he, Mr. Parish, had had a severe attack of pain in the bowels, and was then asleep from the effect of an anodyne administered for that attack. She then asked me what my motives were in wishing to see him on my former visit. I told her in effect that they were of a general character, but

1133 particularly to see if there had been any improvement in his mind or health. She then asked me who sent me, and under whose advice I acted. I told her that no one sent me, and that I acted under the advice of no one. That my duties were so simple that I did not require the advice of any one. I had merely to take care of the property in my charge, and should continue to do so uninfluenced by the fear or favor of any one. It was at about this time that I expressed to Mrs. Parish a desire that she would take this property out of my hands by an order of Court. I said to Mrs. Parish that all things were going on well at the office

1134 except that he could not collect the interest on some stocks without a special power of attorney. She remarked in words, "oh! that is of no consequence." She then inquired in reference to these stocks, if they were all in his trunk. I told her they were. She asked me if I had the key of that trunk with me. I told her "no." She asked me where I kept it. I told her in my private drawer at the office. She said, "If I should ask you for it, would you have any objection in giving it up to me." I told her I should have such an objection, and told her in effect, the exact words

1135 not remembered, that there was a great deal of property in that trunk, documents, and so forth, which were negotiable without any one endorsement, and I felt that I could not give it up, for should any of that property be missing, I should be looked to for it. I think she then made this remark, "well, it is very hard that a man can't have his own." I said to her, "whenever I am satisfied Mr. Parish is of sound mind, I shall have no objection in giving it up to him." During this interview, and I believe subsequent to the foregoing events, I think it was immediately after-

1136 wards, Mrs. Parish said, "I am sorry there is so much contention about his property before the man is dead." I replied that I had never heard of any such contention, and did not know of any. She then said, "you must know, for Judge Sherman told me that he told you all about it." In reply I said, "Judge Sherman never told me so, and I never knew of any contention." To any inquiry from me as to what time I would be allowed to see Mr. Parish, she said, "As to that you must take your chance with others, for so long as he remains in his

present position, no one can see him." These I believe to 1137
 be nearly her exact words ; I then left ; shortly afterwards,
 I think it was on the ninth of October, I went up to Mr.
 Parish's house in company with Mr. Daniel Parish ; we
 were admitted to the library on the right of the entrance ;
 Mr. Daniel Parish sent up his name and mine, with a re-
 quest to see Mr. Henry Parish ; the answer came back that
 Mr. Daniel Parish could come up ; he then sent word back
 by the messenger that he wished me to come up with him,
 or go up with him ; the answer came back that only Mr.
 Daniel Parish could come up ; Mr. Daniel Parish went up 1138
 stairs and I remained in the library ; soon after Mr. Daniel
 Parish came down and we retired from the house together ;
 not many days afterwards I went to Mr. Henry Parish's
 house with Mr. Sherman, and to a request from Mr. Sher-
 man given to the servant in attendance at the door, to see
 Mr. Parish, the servant said, " Mrs. Parish's orders are that
 Mr. Sherman cannot be admitted ;" and to the same re-
 quest sent up by me, the servant brought back the answer
 that Mr. Parish was then asleep, and no one could be ad-
 mitted to see him ; we then left ; there are some subjects
 which I at present forget in connection with this matter, or 1139
 some subsequent interview.

Q. After this call with Mr. Sherman, did you do any-
 thing or perform any act in reference to the care or custody
 of the will, the trunk, or its contents ?

A. I did ; I think it was on the 13th of November I went
 to the Phoenix Bank, took the will from the trunk, brought
 it to our office, put it in an envelope, wrote upon the en-
 velope, " Deposited by George W. Folsom in the Fulton
 Bank 13th November, 1849 ;" these I think to be the
 words endorsed upon the envelope ; having sealed it, 1140
 I took it to the Fulton Bank, handed it to Mr. Lane,
 the cashier, told him I wished to have it there as a de-
 posit for safe keeping, and asked him if he would re-
 ceive it ; he assented to receiving it and said, " I will
 guarantee its safety against all dangers but from fire," or
 words to that effect ; the 5th of January, 1850, Mr. Dela-
 field, of the firm of H. & W. Delafield, came into our office,
 and inquired for Mr. Kernochan ; Mr. Kernochan not being
 in, he told me that Mr. and Mrs. Parish were at the door

1141 in their carriage, and I had better go down and see them, or words to that effect ; I went to the carriage at the door, and saw Mr. and Mrs. Parish ; after talking or speaking to Mr. Parish on ordinary subjects, now not remembered, Mrs. Parish said to me, " Mr. Parish wants, or is very anxious," or words to that effect, " to get a paper from the office ;" this question was put by Mrs. Parish evidently to explain the cause of certain movements of Mr. Parish, which I could not understand ; she said, as near as I can remember, " is there not a bill of Mr. (the name not now
 1142 recollected, or perhaps not given by her,) in his, Mr. Parish's desk ;" I informed her that I knew of no such paper ; she then remarked, " it is his will he wants, and you had better ask him," or words to that effect ; I then said to Mr. Parish, " Mr. Parish, do you want your will ?" he made a negative movement of the head, and certain gestures of the hand ; I then repeated the question in very much the same words, twice ; his reply in both cases was a slight nod of the head, an affirmative nod ; Mrs. Parish then remarked, " Well, I am glad you understand him at
 1143 last, and you will please bring it up," or " you will bring it up to the house ;" I said to her, " I am not so positive or sure on that point, I will take counsel with my legal adviser, and be governed accordingly," or words of similar import ; she abruptly closed the carriage window, and ordered the coachman to drive on ; I called upon Mr. Francis Griffin that afternoon, laid the case before him, and asked his advice, acting upon his advice, and also the advice of Mr. Kernochan I took the will from the bank, and on the following day, I think, it was asked Mr. Kernochan to go up with me, and see to the delivery of the will ; we went up, Mr.
 1144 Kernochan and myself, to Mr. Parish's house ; were admitted into the library ; there were present Mr. and Mrs. Henry Parish, Mr. Delafield, Mr. Kernochan and myself ; Mr. Kernochan sat upon the right side of the grate or fire-place ; soon after I had taken my seat near him on his left hand, I said to Mr. Henry Parish, " Mr. Parish, I have brought up your will, do you want it ?" I think his reply was a slight negative, or of so indefinite a character I could not tell whether it was affirmative or negative ; I repeated the question, and he made an affirmative motion of the head ;

he took the will from my hand, and I think either put it on 1145
his seat beside him or sofa; I think he was sitting upon a
sofa, or he kept it in his hand upon his lap; I am not posi-
tive which, and, to the best of my recollection, Mrs. Parish
came forward, took the will, and laid it on the mantelpiece;
soon afterwards Mr. Parish apparently missed the object,
the will, and made motions or gestures, which apparently
signified a desire for it—for something; Mrs. Parish, I be-
lieve, returned to the mantelpiece, and handed him the
will; during this interview Mr. Parish made certain motions
with his hand towards me, indicating, if it indicated any- 1146
thing, that he wanted some conversation with me; he kept
this up some time, kept up these motions, but we failed to
ascertain what he wanted; Mrs. Parish observed, in words
amounting to this, "he wants to speak to you, or address
you about some matter of your own, or about your being
paid for your services;" I said to Mrs. Parish, "I feel that
is a very delicate subject for me to speak on at present;"
in reply, she said, "oh, you had better waive all delicacy
upon that subject, all delicacy in the matter, and try to find
out what he wants," or words to that effect; the same re-
commendation was made by Mr. Kernochan and others in 1147
the room; the words I shall now use may not be literally
those used in my questions to him—"Mr. Parish, do you
wish to pay me for my services?" he made an affirmative
motion of the head; I then said, "shall I name amounts?"
still the same affirmative motion; I said "one thousand
dollars;" he nodded; "fifteen hundred;" he nodded; "two
thousand;" his motions in reply to that were indefinite; I
then said, "Mr. Parish, do you wish me to continue to
transac your business?" or words to that effect; he made a
motion or motions with his hands, I believe towards Mr. Ker-
nochan and myself; I also asked him if he wished a balance 1148
which stood against me upon his books cancelled; about this
time I said to Mrs. Parish, either immediately or within
a short time, "you believe and say that Mr. Parish is of
sound mind," or words to that effect; she said, "yes;" I
then said to her, "you see he can use his left hand freely,"
which is as near the words used by me as I can possibly
remember; I said to her, "such being the case, if you
should put block letters before him, he would certainly be

1149 able to make himself understood, or his wishes understood," or words of similar import; in reply Mrs. Parish used these words, "what impudence in Mr. Folsom to propose any such thing;" not long afterwards Mr. Parish appearing fatigued, we left the room, Mr. Kernochan and myself; Mr. Delafield accompanying us into the hall; Mr. Kernochan I believe it was who suggested, that perhaps Mr. Parish wanted his balance sheet; I think I requested Mr. Delafield to say to Mr. Parish, that I would make out the balance sheet, and bring it up; we then left; I then made out his balance sheet, and on Monday, the seventh of January, I think it was, I had the balance sheet completed, 1150 went up to Mr. Parish's house to deliver it to him, and found that he with Mrs. Parish had gone out riding; I immediately returned to our office, and there found assembled Mr. and Mrs. Henry Parish, Mr. Daniel Parish, Mr. Kernochan and Mr. Delafield. [It is agreed by the counsel, that when in the course of this examination any witness refers to a Mr. Delafield without designating which, reference is made to Henry or William, the witness rarely if ever being able to distinguish.] I handed the balance sheet to Mr. Henry Parish; I took, I think, the day-book which contained the record of 1151 our transactions since his attack; held it before him, he being seated in a chair; explained or spoke of the different entries, Mr. Kernochan at the same time explaining them; among those entries was one in which I charged myself with \$500 as for services to a certain date, on seeing which Mrs. Parish turned to her husband and remarked, "well, had I better give him the check I brought down," or words of similar import; the conversation then turned upon the matter of the will, and she was somewhat excited or angry apparently when speaking of it; I remarked to the effect, that I had no doubt Mr. Parish was satisfied with 1152 what I had done, or words of the same effect; she then said exactly these words, I think, "if Mr. Parish could speak, he would very soon let you know whether he was satisfied or not;" I replied, "if he should ever come to his mind, you may thank your stars, if you can render as clear an account as I can," or words to that effect; these are almost the precise words I used; she then retorted angrily, and Mr. Parish turned abruptly towards her, with a menac-

ing gesture of the head, and I may say struck her upon the 1153 shoulder and pointed towards the carriage; she said, "well, if he speaks to me that way, I must answer him," or words to that effect; I must now rest in the narrative and await the question to be put to me.

Q. Can you produce the written order for the trunk with the name "Henry Parish," and if not, why not?

A. I cannot produce it at this moment, it may be in my possession, but I do not know at present what has become of it?

Q. You have spoken of an interview at Union Square; when Dr. Delafield was present; did he remain during the 1154 whole of that interview?

A. He did not.

Q. At the interview at Union Square, when after the interrogatories to Mr. Parish, about his giving the Union Square property, and his having given in his will the Barclay and Chambers street property, you spoke about his incapacity or unsoundness of mind to Mrs. Parish, where was Mr. Parish, or how near to you was he?

A. He was very near to us indeed, for I had just risen, and I think Mrs. Parish was still sitting at his side; I made that remark to close the interview there. 1155

Q. If he had his hearing, was the tone such that he could have heard it?

A. I think so; I had no desire to say it under my usual tone, or in such a manner that he could not hear it; I felt so positive in my being right in my conclusions, that I had no fear of its affecting him, of the speech affecting him.

Q. Did he make any indication thereupon?

A. He did not.

Q. At the interview at Union Square on the 4th of October, 1849, did Mrs. Parish say anything to you about the views, causes or motives, which had led to your being ad- 1156 mitted to see Mr. Parish?

A. She said in these words, "When you were admitted to see him before, you were so admitted on the supposition that you were my friend, or friendly to me, and from your long and confidential intercourse with Mr. Parish you must feel particularly friendly to him as well as to myself."

1157 Q. At the time you had the tin trunk at the house, was anything said to you by Mrs. Parish about the place in which it should be deposited, if left there?

A. She said it should be put in the plate-safe, at the house, and she offered to give me the key of that plate-safe, if I would leave the trunk.

Q. At the time you understood the trunk had been taken away from the Phoenix Bank, where was the key of the trunk?

A. The key was in my possession.

Q. Have you ever parted with that key?

A. I really am at a loss to say whether I ever parted with it or not; I do not recollect of ever parting with it.

Q. What was your last action or connection with the tin
1158 trunk in the Phoenix Bank, and what ultimately became of it?

A. I do not remember my last action; I can't say from any knowledge on the subject, what ultimately became of it.

Q. Did you at any time, and when, make any inventory of its contents?

A. I did, on the 13th November, 1849.

Q. State how you made it, and with what aid, and in whose presence?

A. I made it with the aid of Mr. Ogden, the Cashier of the Phoenix Bank, and in the presence of Mr. Tileston, the President; that is, he was present in the Bank parlor at the time, and I think there were other persons present, but
1159 who I do not remember.

Q. Why did you consult Mr. Francis Griffin about giving up the will?

A. I had previously had a short conversation with him on the subject of my connection with Mr. Parish's affairs; I was induced to go to him, as he had once been recommended to me by Mr. Henry Parish himself, as a proper person to go to for advice on some business of my own.

Q. Why did you take this inventory?

A. I thought from the way in which matters were tending that Mrs. Parish would probably get possession of the trunk, and from the advice of Mr. Griffin so to do; it seemed to me a very necessary precaution, in letting such a mass

of property go out of my hands, that I should have some 1160 evidence that I had given it up in the order that it should be ; and, besides, I had learned from Mr. Ogden that he had been enjoined by Mrs. Parish I believe, I am not positive on that head, against parting with that trunk to me or any one else.

Q. At the interview in Union Square at which you gave up the will, was anything said about any alteration or alterations of Mr. Parish's will ?

A. I said to Mr. Parish, "Mr. Parish have you ever altered your will ?" having reference to the will just handed or words similar ; I think the words were, "Have you ever 1161 made any alteration in your will ?" I think these were the exact words ; he made a negative movement of the head ; I wished to call Mr. Kernochan's attention to the question, which I intended to repeat, he then being engaged in conversation with some party present ; and I did call his attention by asking him to listen to the question I was then going to put, or words to that effect ; I then put the same question to Mr. Parish, the same as I had before, asking him if he had made any alteration in his will ; he made a very decided negative movement of the head, or shake, and, 1162 I think, made a sound with his voice, sounding much more like "No" than "Yes," but which I never should have supposed to be "No," if it hadn't come immediately after a question and under the peculiar circumstances ; I think that expression which sounded more like "neah" was the only time that I ever heard him express himself in that way.

Q. At this time when the question was repeated by you, was Mr. Kernochan giving attention ?

A. I thought he was.

1163

Q. When you asked him if he wished the balance which stood against you on his books cancelled, did he make any gesture, or sound, or sign, or give any answer ?

A. I think none other but the affirmative movement of the head ; I think he made a nod.

Q. Did you put that question of your own accord, or did any one prompt it ?

A. I do not remember ; I think of my own accord.

Q. At the time you spoke to Mrs. Parish about her be-

1164 lief and statement that Mr. Parish was of sound mind; and when you suggested the use of block letters, was Mr. Henry Parish present?

A. He was, immediately beside me.

Q. Did he give any indication of any emotion on his part of any kind, to your remarks on that head, or to those of Mrs. Parish?

A. To the best of my memory he did not.

Q. When Mr. Kernochan suggested that perhaps Mr. Parish wanted his balance sheet, were you and Mr. Kernochan yet in the room with Mr. Parish?

A. No sir, we were in the hall.

Q. At the interview in the store, at which you delivered 1165 the balance sheet, did Mr. Henry Parish make any gesture or give any indication upon his wife suggesting about the check?

A. He did not.

Q. Did you ever see any menacing gesture on the part of Mr. Parish towards his wife, except on that one occasion in the store?

A. I never did.

Q. When you spoke on that occasion to Mrs. Parish in reference to the future, "if Mr. Parish should ever come to his mind," was Henry Parish present, and in hearing of the words?

A. He was immediately in front of me, and in reference to that occasion when Mrs. Parish indicated or said that he would not be satisfied if he could express himself, would not express himself satisfied, I turned to Mr. Parish and 1166 said to this effect, "Mr. Parish, are you not perfectly satisfied with what I have done?" He put his hand up, which I took hold of, and bowed his head.

Q. After this interview at the store, did you see Mr. and Mrs. Parish in their carriage at the store door?

A. I did a great many times.

Q. After the will was delivered up at the house, had you any conversation with Mrs. Parish in the presence of Mr. Parish, in their carriage, when the will was referred to?

A. I do not remember that I ever did.

Q. Had you at any such interview at the carriage after the will was delivered up, any occasion to speak of the tin trunk, or as to where it was?

A. I do not remember that I had. 1167

Q. Had you any occasion at any such interview in the carriage to speak about a list of stocks?

A. I do not remember that I ever did.

Q. Did you ever at any time after leaving the will at his house ask him whether he wanted his will?

A. Not that I remember.

Q. Do you know what became of the box marked H. & D. Parish, containing securities or papers belonging to both brothers?

A. I do not know what eventually became of it.

Q. Where was it kept?

A. At the Phoenix Bank.

Q. How was the key of it kept and disposed of?

A. It was generally kept in a small private drawer in the 1168 store; the same drawer where the key of Henry Parish's trunk was kept.

Q. Had you any, and what access to and use of the trunk marked "H. & D. Parish," and the key thereof?

A. I had; if at any time in the absence of the Messrs. Parish anything was wanted from it; whether they were absent or present at any time I always considered myself at liberty to go to it.

Q. Was that trunk marked "H. & D. Parish" ever, and when, and by whom, and to what place, removed from the Phoenix Bank?

A. I know that it was removed, and to the house of 1169 Henry Parish after his illness, but I don't know the time, and I do not know who took it there.

Q. About how long after the attack did such removal take place?

A. I should say some three or four months.

Q. Do you know whether at that time there were in that trunk any securities which were the separate properties of Daniel Parish?

A. I know that there were.

Q. State such of them as occur to you at this moment, and any steps that were taken to your recollection to get them back?

A. I think there were some Alabama bonds, Tennessee bonds, and Cincinnati 5 per cent. bonds I think, and some

1170 others I think ; about the latter part of April, 1850, I think at the request of Mr. Daniel Parish, I wrote a note to Mr. Henry Parish, requesting him to send down the Alabama bonds, and the Tennessee bonds belonging to both Henry and Daniel Parish, that he might collect the interest which was then falling due, or that if they did not wish to send the whole to send Daniel Parish's ; and I think I described the amount of the bonds, and the proportion belonging to Mr. Daniel Parish, which was \$7,000 of the Alabama bonds, and I think \$16,000 of the Tennessee.

Q. Do you remember any results of that letter ?

1171 A. The results were very negative for sometime as the bonds were not forth coming ; I think the bonds were eventually sent down to Mr. Daniel Parish, but not for some months after the application ; I mean that Daniel's share of the Alabama and Tennessee bonds came.

Q. Have you any recollection of anything done with the books, or otherwise, by Mr. Kernochan, when the carriage was at the store door in reference to these bonds.

A. I have a recollection to that effect.

Q. State it ?

A. I recollect that there appeared to be a doubt with
1172 Mrs. Parish as to whether a part of these bonds belonged to Daniel Parish, and Mr. Kernochan took the book down to the carriage in which the entries of the division of the properties of H. and D. Parish were made, and exhibitd it and explained the entry to her, and which I think influenced the return of the bonds belonging to Mr. Daniel Parish.

Q. About what date was that division made on the books ?

A. I think it was early in 1849, or the latter part of 1848 ; I don't recollect which ; it might have been a year
1173 or two earlier, I forget ; perhaps in 1845 or 1846.

Q. According to your best recollection, how much time elapsed after the occasion when Mr. Kernochan took down the books, before Mr. Daniel Parish's bonds were returned ?

A. I do not remember ; I have no idea.

Q. Up to the time of his attack, what was the character of the books and accounts kept by Mr. Henry Parish in respect to minuteness, completeness and accuracy ?

A. As I kept them myself, I am bound to give them a ¹¹⁷⁴ good character ; I think they were kept minutely, correctly, and every transaction was placed to its proper account—all of which was due more to Mr. Henry Parish's own supervision than to any effort of mine.

Q. Did he keep an expense account ?

A. He did.

Q. Did he keep an interest account ?

A. He did.

Q. In respect to the different classes, or items of his property, did he in any, and to what degree, keep separate accounts ?

A. The stocks were generally entered in an account under the head of "Stocks," many of them, however—some of them, however, were under the head of their special name ; bonds and mortgages were kept under the head of ¹¹⁷⁵ "Bonds and Mortgages ;" real estate had a distinct account under the head of "Real Estate," but in many instances certain items of real estate would appear under a head of their own, for instance, Union Square property, or part of it, was under the head, I think, of "Union Square Property Improvement," or something like that.

Q. Have his accounts to any, and what extent, been continued or attempted to be continued subsequently to his attack ? and if not, why not ?

A. They were continued, I think, not long after the 1st of January, 1850 ; the reasons for not continuing them longer were, that with the disappearance of evidences of property I was deprived of the power of continuing the ¹¹⁷⁶ books, as I could not tell what was paid, or what was not paid.

Q. After that disappearance were you ever furnished with information, means or materials to enable you to continue the books or accounts ?

A. I never was.

Q. Did you continue to receive any salary or compensation after the attack, and if so, to what time ?

A. To the word "continue" I can't reply, as previous to the attack I do not remember receiving any stated salary ; but after the attack I drew for the first year one thousand dollars ; I think \$500 in January, 1850, and \$500 in the following July ; I think it was in July just previous to my

1177 drawing that \$500 I was informed, I am not sure but I think by Mr. Kernochan, that Mrs. Parish objected to the amount of \$1000 per annum; she thought it too much; I replied by insisting upon that six months' pay of \$500 being received; but was willing to consent that that after that period, it should be reduced to \$500 a year, and since that time I have received \$500 a year; I have generally received a check for \$250 early in January and July of each year; Mrs. Parish's check; there is, however, an exception or two; I am sure that on one occasion I requested Mrs. Parish in July to send me a check for \$500
 1178 instead of the \$250 then due, making the excess of \$250 a borrowed amount, for which I gave my note payable on demand, I think, and which has never been returned to me; my request to Mrs. Parish was I think a written request; I don't think there was another case like this, but there might possibly have been one; I have always given or sent a receipt to Mrs. Parish for the amounts received from her, and this excess of \$250 for which I gave the note was cancelled by the subsequent six month's services, for which I received nothing more.

1179 Q. On these occasions when Mr. and Mrs. Parish came in the carriage to the door, did it ever happen or was it usual that papers or documents brought in the carriage had to be left with or exhibited to you?

A. It did often happen.

Q. State the usual manner in which that operation was conducted?

A. In the carriage most frequently Mr. Parish would sit on one seat, and Mrs. Parish on the other, especially on such occasions, when documents or papers were brought and exhibited to me; if a check was brought for me, or a bond upon which I was to collect the interest, it was
 1180 generally placed beside Mr. Parish on the seat upon which he sat, or in a reticule or bag, and Mr. Parish would frequently or almost always take up the package, but would fail to separate or select the required paper; Mrs. Parish would pick it out, and hand it to me.

Q. On these carriage visits, was it ever or frequently a matter of effort on the part of Mrs. Parish and yourself to find out anything from Mr. Parish, or to find out what he wanted?

A. We always made great efforts to find out what Mr. 1181
 Parish wanted, but never, to the best of my memory, has
 Mr. Parish ever been able to convey his wishes to me to
 my satisfaction; being unable to speak, he could do
 nothing but make motions with his hand, and these motions
 were almost always of a similar character on these occa-
 sions of the carriage meetings, and they were of this
 character; on coming before him, he would always put up
 his hand, raising it with the two fore fingers extended, and
 the remaining three partially closed, or sometimes two,
 shaking it as he raised it, and then turning it over, putting
 the tops of the fingers downwards, with the same shaking 1182
 motion, accompanying it with a sound from his mouth,
 which the letters a s e would express more nearly than any
 others; these motions of his would become more violent, as
 Mrs. Parish, in trying to express what he meant, failed to
 do so; the voice might cease or might be continued in the
 same manner; as he became more excited, the a s e would
 become more emphatic or loud; I do not mean to say that
 the shaking motion was involuntary, nor do I say it was
 voluntary; I know not; the motion was such as I might
 make if I should say, "you do not understand me." 1183

Q. How did these scenes of a motion which you have
 just now been describing usually terminate?

A. He would eventually fall back, or lay back, appar-
 ently giving it up, apparently perfectly placid, and seeming
 to have no further effort to make.

Q. Previously to his attack, did you ever know Mr. Par-
 ish to touch his wife, or any other person rudely, or do any
 act of that kind?

A. I never did, and never would believe him capable of
 so rude an act, unless I had seen him perform it. 1184

Q. In what degree was he prior to his attack, courteous
 and polite?

A. In a remarkable degree.

Q. Judging by your own knowledge of him, from your
 intimacy with him, and your own personal observation,
 what was the condition of his mind, memory and under-
 standing from the time you first saw him, after his attack
 in 1849, until, and including the last time you saw him?

1185 (Objected to by Mr. Cutting as incompetent. Question allowed.)

A. I think through that whole period he was not far removed from an imbecile, still retaining some memory, some lingering ideas of former business habits; constant efforts to express himself, without the ability so to do, without the mind to enable him so to do.

Q. About how long before his death did you last see him?

A. I cannot say with certainty, but the period did not exceed three months before his death when I last saw him.

Being *examined* by Judge Edmonds, the witness says?

1186 Q. Do the books of Mr. Parish, so far as you are acquainted with them, show when he became owner of the different articles of property mentioned in the second section of the second codicil?

A. Those books do show to the best of my knowledge how and when he became owner of a part of the stocks; they do not show as to the rest.

Q. Please to name to us those which the books do show?

A. I answer to the best of my recollection; 2058 shares of the stock of the Phoenix Bank; a bond and mortgage of Nelson Shook; it may be 14 bonds, \$1000 each, of the New Haven and New London Railroad Company; but I think they are not put down in these books; and stock or scrip in
1187 the Manhattan Gas Company; I think none of the rest are mentioned in these books.

Q. Why are they not mentioned in these books?

A. Because they were not bought before he was paralyzed.

Q. Do these books show what other property, real or personal, Mr. Parish acquired after September, 1842?

A. Every business transaction of Mr. Parish's in this country from September, 1842, to the time of his attack, were recorded in detail in his books as they occurred.

Q. If Mr. Parish was at the time of his death the owner of any property, real or personal not entered in these books, what must be the fact in regard to the time of the commencement of his ownership of such property?

A. It must have been some time between the 19th of 1188 July, 1849, and his death.

Q. Will these books show what property owned by him in September, 1842, he parted with and sold before the 19th of July, 1849?

A. They certainly will.

Q. Did any property owned by him in 1842, diminish in value while he was such owner?

A. I think some of it did, and fluctuated with the fluctuating value of such property.

Q. Was such diminution of value ever carried into the accounts on those books?

A. I think it was; I know that some of his property was estimated at a reduced value at a time not long preceding his attack. 1189

Q. Was the diminution of the value of any of his real estate thus entered in his books?

A. There was; in July, 1848, various stores in Pearl and Pine street were reduced by an entry on the books in value \$38,000; that appears on page 47 of the journal.

Q. In the balance sheets that you made up from time to time for Mr. Parish, how was such property entered, according to the original valuation or the valuation after such diminution was entered?

A. According to the valuation as it stood on the books at the time the balance sheet was made.

Q. Was there any diminution of any other property entered upon the books than the lots on Pine and Pearl streets to which you have referred? 1190

A. I do not remember any; that is as to property which he owned in 1842.

Q. Do you remember now the balances on any of those balance-sheets which you rendered him?

A. I do not.

Q. Do you know that Mr. Parish ever rendered any pecuniary aid to his brother James?

A. I remember an entry of an advance to Jacob, the son of James; the time I do not remember; one advance to Jacob was \$4,000; I do not know of Mr. Parish rendering pecuniary aid to his brother James.

1191 Q. Do you know of his having rendered any such aid to his nephew Jacob?

A. I do not know of any such aid.

Q. Do you know whether there are entries upon these books of any such pecuniary aid to James Parish?

(Mr. O'Connor objects to the question on the ground that the books are present and speak for themselves.)

Judge Edmonds adds to the previous question as follows:

Q. I call your attention to page 10 of the Journal, under date of January, 1846, and request you to read it.

The witness reads as follows:

H. and D. Parish Dr. to James Parish, for James Parish's
1192 draft on former, in my favor, dated January 1, 1846, for \$5,613 98, as cash, 1st January, 1846.

Judge Edmonds offers the entry in evidence.

Q. What is the meaning of that entry?

A. It means that James Parish was advanced that amount by H. and D. Parish.

Q. Look at the first entry on page 11 of that Journal, and be pleased to read it.

Interest account Dr. to James Parish, for balance of his
1193 account as made up to 1st January, 1846, given to him \$6,944 26.

Q. What does that mean?

A. It means that he gave him the balance of that account \$6,944 26; made it a present to him.

Q. Look at account on page 87 of that Ledger, and please to read that.

A. Under the head of James Parish, he is made debtor, under date of January 1, 1846, to balance brought from old Ledger, p. 24, \$12,558 24; on the credit side of that account he is credited, under date of January 1, 1846, by

his draft at sight on H. and D. Parish, \$5,613 98; under 1194
 same date, by interest account for balance given him,
 \$6,944 26; this balances the account.

GEORGE W. FOLSOM.

Subscribed and sworn before {
 me, June 6, 1856, }
 A. W. BRADFORD,
 Surrogate.

June 7, 1856. 1195

rties present.

orge W. Folsom, being further examined by Judge
nds, says :

Do you know whether Henry Parish's responsibility
a any way involved in Daniel Parish's operations in
1, during Henry's absence in Europe?

In his operations in cotton for H. & D. Parish, he
nvolved. Some of the operations during Henry's ab-
in Europe were on joint account of H. & D. Parish.
: joint operations extended to over \$300,000, I think.
e books, I see the loss on these joint operations was
\$22,000. I never heard those operations or that loss 1196
the subject of discussion between Henry and Daniel
h.

Did you ever hear either of the brothers complain or
ault with one another, in regard to such operations or
?

I never did.

Did Daniel Parish, at any time after 1838, endorse
y Parish's notes for him at his request?

I do not remember, but I think it very probable that
d.

Did he endorse Daniel Parish's?

I don't remember; I don't remember that Daniel
h ever gave a note.

Was the friendly intimacy between the two bro- 1197
more, or less, than between Henry Parish and Mr.
ochan?

I think it was less.

Did you ever know of any difficulties or disputes be-
the two brothers?

I do not remember that I ever did.

What were the business or social relations between
y Parish and Judge Sherman—friendly, or otherwise?
Friendly.

Do you know whether Judge Sherman had anything
with settling up the affairs of Henry Parish's father?

1198 A. I believe he did in this way, he being the acting executor of Jacob Parish, deceased. All that he did to my knowledge, in the way of settling those affairs, was, to receive the checks made in the division of the account of the executors on the books of H. & D. Parish, and hand those checks over to all or some of the parties interested under the will of Jacob Parish.

Q. In your interview with Henry Parish when you delivered up the will, and you failed after trial to ascertain what he wanted, did you or any person present make suggestions to him, or ask questions of him in order to ascertain what he wanted?

A. I do not now recollect exactly that we did, but I have no doubt such was the case.

Q. What was the trial to ascertain what he wanted?

1199 A. I don't recollect.

Q. In that interview was any suggestion made or question asked in relation to his sisters, brothers, their children, or any or either of them, or any disposition of his property by will?

A. There was no such suggestion or question that I remember.

Q. Was any such trial by question or suggestion made at any other time or at any other interview, to ascertain what he wanted.

A. There never was that I remember.

Q. Were any such suggestions or questions made or put to him, at any time or under any circumstances in your presence?

1200 A. I believe not.

Q. Did you ever see him shed tears?

A. I have.

Q. Before or after the attack?

A. After—and not before.

Q. How frequently?

A. Not often—perhaps three or four times.

Q. Where?

A. In his carriage, in front of our office.

Q. What caused that emotion?

A. I do not know; I can only imagine; I know no cause.

Q. What did you imagine to be the cause ? 1201

A. Sometimes I thought it was pain, weakness of mind, or hysterical ; recollecting when I was in a very low condition myself, I had frequently shed tears without the power of avoiding it.

Q. Did you ever see him show anger ?

A. After the attack I have seen him very much excited, but I was not sure that it was anger.

Q. How frequently ?

A. Perhaps six times, as near as I can imagine.

Q. Where ?

A. Generally in his carriage with Mrs. Parish in front of the office.

Q. Can you tell what produced that excitement ?

A. It always occurred at the carriage, at those interviews that Mr. Parish made those gestures of the hand which 1202 might be very easily understood as wanting something or some information ; and his excitement arose frequently at those interviews, at Mrs. Parish persisting in interpreting his wishes, and failing therein.

Q. Did you ever know him to display such excitement before his illness ?

A. I do not remember that I ever did.

Q. Did the motions or gestures with his hand convey any definite idea ?

(Mr. Cutting objects to this question as leading.)

Q. What idea did they convey of themselves, if any ?

A. I answer that question under the firm belief that Mr. Parish at the time was perfectly unsound of mind, and 1203 therefore the motions and gestures spoken of conveyed no definite idea to me, to my mind, as they never were the cause of my understanding them or his wishes.

Cross-examination by Mr. Evarts—

Q. Previous to November, 1834, what had been your employments, and where carried on ?

A. In 1823 I commenced residing in Cayenne, South America, where my father was a merchant, and though young I acted as his clerk to the best of my capacity ; in 1825 I returned to the United States ; in 1826 I was a

- 1204 clerk with Stephen and Anthony Arnold, at Providence, for a few months; I was subsequently at Eastport, in Maine, about a year as clerk in a store; subsequently went to South America again, and resided three or four years in Berbice as a clerk in mercantile business; I was sick there for about a year, and compelled to return to the United States; I arrived at Eastport, on my return, and some eleven months afterwards went into the retail dry goods business, on my own account at that place; in 1834, in April or May, I came to New York; my first entry upon active business here commenced about the first of December, 1834; when hearing that H. and D. Parish wanted an assistant book-keeper or a clerk, I called at their store, 162 Pearl street; the first person I met was Mr. Henry Parish coming towards the door; I had never seen him before; I asked for Mr. Parish; he told me he was the person, and to my inquiry for the situation, he asked me what I had to recommend me; I told him I had a package of letters from down East, and they did me as much good as so much brown paper; he asked me what I expected as a salary; I told him I asked for no particular salary, but should leave that to him—that I wanted to get a foothold in their house, and he might pay me what he thought I deserved; he then told me I might commence when I pleased.

1206 Q. What caused the termination of your own business at Eastport, and your removal to New York?

- A. My goods were bought in Boston by a note or notes given by a man of the name of Foster, who had previously been my employer, and before those notes fell due Mr. Foster failed for about \$600,000, and I, without any support, made an assignment of my property, as under the then laws of Maine it was almost impossible for a young man to do business, without he had a strong backer or considerable means, as the first creditor who could get out an attachment would secure his whole debt, and it was only necessary to insinuate anything against his credit to set all his Boston creditors on the run horseback for Eastport. My assignment paid off all my debts, but left me penniless.

1207 Q. At what age did you commence this employment with your father at Cayenne?

A. I think I was twelve and a half years old, or about 1208 that.

Q. Of what firm, in what capacity and at what compensation actually received, were you employed upon this arrangement with Mr. Henry Parish, that you have mentioned?

A. Parish & Company; I was rather a general clerk and had more to do with the goods than the books; I was there but a month or so.

Q. What was the occasion of your leaving?

A. The disagreeable character of the junior partner of the house, Mr. Thomas P. Norris; I left of my own accord and Mr. Norris offered me a reference to the house.

Q. With whom of that firm during that brief employment did you become personally acquainted? 1209

A. With Mr. Henry Parish, Daniel Parish and Mr. Norris; these are all I remember now, and my acquaintance with them was very slight.

Q. In what capacity were you after this with Wm. A. Beecher & Co., and how long did you so continue?

A. As salesman; and for about a year and a quarter, or a half; I do not exactly recollect I left them of my own will, and I think I went with Jenkins, Dayton & Co., a drygoods house, as salesman and book-keeper, and there remained I think until they became embarrassed, when I went with Sheldon & Phelps, a hardware house, as book-keeper; there I remained just one year, at the expiration of which they wished me to remain, and they began to bid 1210 up on my salary; I declined to stay with them; I then went with W. & J. Gasquet & Co.; I kept their books and bought their goods, in the absence of Mr. James A. Gasquet, one of the firm, who generally bought the goods; after my employment with them terminated, I commenced a small business of buying and selling all kinds of goods at auction—and so commenced under the patronage of Henry Parish, who advanced me \$1000 for that purpose; some months I showed him that on the \$1000 I had made from two to three hundred dollars a month each consecutive month; he told me that I might draw upon him for \$25,000, and after that I did receive from him in various amounts, or rather from H. & D. Parish, I think these loans

1211 were—amounting, perhaps, in the aggregate to \$7000. I think this business of mine continued till 1845, or early in 1846, when meeting with losses, I felt afraid to go on, wishing rather to close it up, so as to secure and make safe my friends H. & D. Parish, or Henry Parish. I stated the facts to Mr. Henry Parish, who offered to pay off all these debts, but a few days afterwards I made an assignment, and since that, these debts have all been paid up, principal and interest, generally; perhaps a few months after that I took the agency here of John R. Marshall & Co., which agency was given me by Mr. Marshall, at the suggestion of Mr.

1213 Henry Parish. This firm, at my first connection with it, was Marshall & James. Mr. Henry Parish proposed to Mr. Marshall, that if he gave me this position, he would always in the event of their wanting money at any time, see that Mr. Folsom was supplied with what was necessary to cover their temporary wants. My salary with W. & J. Gasquet & Co. commenced with \$1,000; it is now \$5,500 with John R. Marshall & Co. I don't remember how it continued with W. & J. Gasquet & Co., I think it rose with them gradually; I don't remember the gradation. Perhaps I got no increase the first two or three years with W. & J.

1214 Gasquet & Co.

Q. What was the rate of your salary at the time your business with W. & J. Gasquet & Co. terminated?

A. I do not remember.

Q. Was it more than a thousand dollars?

A. I do not remember.

Q. What was your salary when you commenced with Marshall & James?

A. I think it was \$1500.

Q. When was it first increased?

A. I do not remember.

Q. When was it fixed at the present sum?

A. July, 1853, when the firm of John R. Marshall & Co. succeeded to Marshall & James.

Q. What was it before that time?

A. \$2,500.

Q. How long had it been at that rate?

A. I do not remember.

Q. Was it that more than one year?

- A. I do not remember. 1215
- Q. What was your salary for the year prior to July, 1852?
- A. I do not remember.
- Q. What was it prior to 1st July, 1851?
- A. I do not remember the particular years or amounts exactly. The books will show all these.
- Q. What was it prior to July, 1850?
- A. I cannot give the dates, but I think it must have been \$1500 or \$1800, or thereabouts.
- Q. What was it prior to 1st July, 1849?
- A. I do not remember.
- Q. Can you state the rate of your salary on the 19th July, 1849?
- A. I can not at this instant; I do not remember.
- Q. How did your acquaintance with Henry Parish, which commenced in November, 1838, arise? 1216
- A. By my meeting him in the office of W. & J. Gasquet & Co., where he made his business head-quarters.
- Q. Did Daniel Parish have his business head-quarters at the same place and the same time?
- A. He did.
- Q. During the period that you attended to the books of Henry Parish prior to his illness, had you at any time any stipulated compensation for that service?
- A. I had; for about four years I had \$700 a year; I think from 1842 to 1846; and besides that \$700, I was given the use of the front room for my business purposes. After 1846, up to the time of the attack, there was no stipulated compensation; I think not; it was not stipulated, but if I remember right, he did for a time pay me at the rate of \$500; I think from 1838 for some years succeeding, 2, 3, or 4, as the case may be, there was no stipulated salary; he, or H. & D. Parish, I don't know which, made me a donation about the 1st of January in each year. 1217
- Q. Was the compensation of \$700, and of \$500, for your services in regard to the books of Henry Parish solely, or in connection also with the books of H. & D. Parish?
- A. The \$700 was stipulated as for H. and D. Parish, the contract being made with Henry Parish, which led to the error, if any, was committed in my stating before with whom the contract was made; the \$500 I think I received

1218 from Mr. Henry Parish ; I do not remember distinctly whether it was for services in connection with the books of Henry Parish alone, or those of H. and D. Parish besides.

Q. How came a change to be made from \$700 to \$500.

A. Because the reasons for which the \$700 had been paid, had ceased to exist ; when Mr. Parish proposed going to Europe in 1842, he related the fact to me and stated that he wished me to agree to stay there until he came back to help his brother Daniel in the accounts and so forth ; and that occasion for extra duties which would be required of me, was the cause of his stipulating to pay me a stated
1219 salary of \$700 ; Mr. Henry Parish, in the office, had been in the habit of attending to most of the entries made there, and giving a more close supervision to such matters than his brother Daniel ; on Mr. Parish's return from Europe, or afterwards, when my duties had become much lessened, I told Mr. Parish I would charge him no salary for what I did ; he remarked, very well let it be so, if you succeed in your business it will or it may be all right ; if you do not you may consider the pay as running on ; after my not succeeding in business the \$500 was paid me by Henry or H. and D. Parish ; Mr. Henry Parish stating, " I want you to understand you are never to want money so long as I live."

1220 Q. During the period from 1838 to 1842, were the services you rendered, for Henry Parish or H. and D. Parish also ?

A. They were for both parties.

Q. Did Henry Parish after his return from Europe diminish your quantity of service, by himself attending to the business as he had done before he went to Europe ?

A. He did.

Q. During the period from 1838 to the illness of Henry Parish in 1849, did you perform service in respect to the books or business of Daniel Parish ?

A. I have done so ; I have done service for him ; I am not sure whether it extended through the whole of that period or not.

Q. What was the nature of those services, and how were they compensated ?

A. The services were keeping his books, and the little 1221 duties of an office? I do not remember how they were compensated formerly, but I think they were compensated, or considered as compensated by me by the several sums I received from H. & D. Parish.

Q. Where was your intercourse with Mr. Henry Parish, which you have spoken of as an acquaintance growing into intimacy, carried on, and what were your habits as to meeting or seeing him prior to his illness, elsewhere than at his office?

A. I had no intimacy with him of a particular character at any other place than the office; I very seldom saw him 1222 elsewhere than at his office, except meeting him in the street, and on a few occasions at his house on business matters; there were very few visits at the Barclay street residence, perhaps two or three, and one or two before the attack at the Union Square residence.

Q. Did you ever have any conversations with Mr. Parish prior to his attack on subjects other than those of his own mercantile or property business or your own business?

A. I had frequent conversations—very frequent upon other subjects.

Q. What were those subjects?

1223

A. General subjects; I can't describe them; they were of every description I can think of.

Q. During this period, prior to the attack, what were the habits of Mr. Henry and Mr. Daniel Parish in respect of the subjects of their intercourse at the office?

A. They were usually of a business character, or in relation to those matters which are always talked of in common between two parties equally interested in the subject matter of the conversation; Mr. Henry Parish would ask the advice or opinion of Mr. Daniel Parish on certain matters and 1224 *vice versa*; these matters were generally connected with business and property.

Q. What were Mr. Daniel Parish's hours of coming to and leaving the office, during this period?

A. They varied very much with the necessities of the case; so far as I remember, he would generally come to the office from 9 to 10 A. M., and leave before 3 P. M.; sometimes he would leave at 11, and at others at 1, and at others

1225 at 8, but I am not able through so long a period to fix an average.

Q. Prior to Mr. Henry Parish's departure for Europe, did you have any care or charge, or perform any service in respect to his securities or collections of income, except under his specific directions?

A. I do not recollect distinctly about that, but I must have attended to these things when he was out of town, or otherwise temporarily absent, and I do not recollect any time since 1838, that I would have hesitated to take the key, go to these securities and use them for his business purposes, if I thought it necessary so to do, to carry out those business purposes.

Q. After his return from Europe and prior to his attack, 1226 was your course upon the subject last enquired of, the same as prior to his leaving?

A. Precisely the same as far as I can remember.

Q. What was his habit, while in the city and giving his attendance at the office, in regard to his securities and his collections? Did he attend to them personally?

A. In some degree he did; he always superintended such matters when present, but if on rent-day, or interest days, he was away, temporarily absent, I would attend to them for him.

Q. In regard to access to his tin box at the bank, was his habit, himself to get from it at the bank what he had occasion for, or to have the box brought to his office, or to send you or any other person for what he wanted there- 1227 from?

A. He generally sent some one for the box, me, or some one else; it was brought to the office.

Q. This drawer in which the keys were kept, was it your drawer, in any sense?

A. It was a drawer that I had more frequent access to than any one else, it being immediately where I was writing; it was in a long general office writing desk.

Q. At about what time was the communication held by you with Mr. Parish in which he gave you to know his mode of spending his time when away from the office?

A. I should judge it to be about 1847; I am not at all sure on that point as to the time.

Q. Prior to the attack had you ever seen Mrs. Henry Parish?

A. I had.

Q. Where, and under what circumstances, had you met her?

A. I had met her at the Barclay street house; I don't recollect whether more than once, but I think it was more than once; I do not remember the cause of my being there; I saw her at the Union Square house once or twice, and on one of these visits at the Union Square house I think it was in reference to some paper or deed which Mrs. Parish was to sign; I think, upon further reflection, that my visits were perhaps more than one or two at the Union Square house, as I visited there at the express invitation of Mr. Parish, for the purpose of looking at his new house; he invited me to come and look at it; those are all the occasions upon which I had met her at her house, to the best of my memory, prior to the attack; I believe I had met her no where else, except at her house, prior to the attack, to the best of my memory.

Q. On either of the occasions at the Barclay street house, did you speak with her or she with you, and if so, what passed between you?

A. The only memory I have upon that subject is this: On one of these visits immediately on my entering the room, Mrs. Parish came forward to me and expressed her gratitude and thanks for a present I had sent her a short time previous.

Q. When had this present been sent to her, and what was it?

A. A short time previous; it was a very large lemon tree, and heavily laden with fruit.

Q. At the visits at the Union Square house before the attack, did you speak with her, or she with you; if so, what passed between you?

A. I do not remember.

Q. How do you know that you got a knowledge that Henry Parish had made a will shortly after the will was made?

A. From the appearance in the trunk of a package inscribed in Mr. Parish's own handwriting, "Henry Parish's

1233 Will," that I think was the superscription; and there is no doubt I saw the document in Mr. Parish's hand, and heard him speak of it, though I don't distinctly recollect the circumstance.

Q. Where did you hear him speak of it, and at what time—was it before he made it or after?

A. I think it was in his office if I heard it at all; my impression is it was there in the office, and soon after it was made.

Q. How and to whom did he express himself, in speaking of his will.

A. I don't remember.

Q. Was it to you?

A. I think not.

1234 Q. Was it to Mr. Kernochan or to Mr. Daniel Parish?

A. I do not remember.

Q. Have you any recollection or impression that it was to any other person than one of those I have named?

A. My memory is very indistinct, but it is called to the subject by a faint recollection of the document lying on Mr. Parish's desk in front of him, and he made at that time some remarks to another person, and I thought at the time whether I should be called upon to witness it, and have had ever since, up to the time of its being opened, a sort of an idea that I had been witness to that will; which idea, no doubt, arose from that circumstance I have mentioned.

1235

(Mr. O'Connor objects to the question as leading and assuming an inference. Question allowed.)

Question repeated.

A. I have no recollection whatever upon the subject of whom the person was.

Q. Have you any recollection in connection with the circumstance you have last related, or in connection with your idea that you were a witness to that will, that the contents of that will or any part of them were communicated to you by Mr. Parish?

A. I am very sure that no part of the contents of that will were ever communicated to me by Mr. Parish.

Q. Prior to the attack, did you yourself at any time take

part in, or hear from any other person, any conversation 1236
upon or relating to the fact that Mr. Henry Parish had
made a will ?

(Question objected to by Mr. O'Connor, because it calls
for hearsay. Objection sustained.)

Q. Prior to the attack, did you at any time take part in
any conversation upon or relating to the fact that Mr.
Henry Parish had made a will ?

(Objected to by Mr. O'Connor as irrelevant.)

A. To the best of my memory, no.

Q. Did you ever mention the fact prior to the attack ?

A. I may have done so, but to the best of my memory I
did not.

Q. What impression leads you to say that you may have
done so ? 1237

(Mr. O'Connor objects to the enquiry about impression,
especially as no impression is proven, and if it were, would
be no evidence.)

A. I have no memory upon the subject at all, but I
think I may have spoken of it ; I say that I may, because
it is very likely that I mentioned the subject to other par-
ties, not considering that any principle was involved in it,
any secrecy required.

Q. What persons have you in your mind, in using the
phrase other parties, in your last answer ?

(Mr. O'Connor objects to the question. Objection sus-
tained, on the ground that it is based upon an opinion of
the witness.)

Q. Did any person prior to the attack mention to you 1238
the fact that, or ask you the question whether, Henry Parish
had made a will ?

(Objected to by Mr. O'Connor, as referring to the conver-
sation of some person whose words may not be evidence in
this case. The question is allowed, the witness being di-
rected to answer the question simply in the negative or
affirmative.)

A. To the best of my memory, no.

Q. At the time you discovered the will in the box of
Mr. Parish, or at any time prior to his attack, did you dis-

1239 cover any other papers or package in the box, having any relation to a testamentary disposition of property by him?

A. No.

Q. Up to what time prior to the attack, did you continue to have knowledge or observation that the will of Mr. Parish was in this tin box?

A. Up to the time I took it, as I have before stated, I do not mean by that answer that it was in that trunk every day during that time; it might have been taken out by Mr. Parish for a temporary purpose; I never noticed that it was absent.

Q. In what kind of envelope was this will, and how sealed?

A. As to the color of the envelope, I am not sure whether it was white or yellow, but I believe it was one of those colors; and I think it was sealed in three places with sealing wax on the exterior of it, and I have an impression, but am not sure, that the ends of the envelope were closed by sealing wax inserted.

Q. From whom did you first hear of Mr. Henry Parish's attack, and what was the communication to you?

A. I do not know exactly; I was in at some store for the purpose of purchasing goods, and was told of the attack, or of some accident to Mr. Parish.

Q. When did you first learn, and by whom, the actual character of the attack?

A. I do not remember.

Q. Can't you say within how many days it was?

1241 A. That I can give; it was the same day; and it is more than probable that I heard it from Mr. Kernochan, in the office.

Q. Where was Mr. Daniel Parish on that day, and if absent from the city, how long had he been absent?

A. I think he was absent from the city, but how long he had been absent, I do not remember.

Q. When, after the attack, did he return to the city?

A. I cannot state, from memory.

Q. What is the earliest time, after the attack, that you recollect seeing Mr. Daniel Parish?

A. I don't remember.

Q. Have you any recollection of seeing him within that 1242
month of July, after the attack ?

A. I have no recollection as to when I saw him first.

Q. Have you any recollection of having seen him here
during the following month of August ?

A. I have no recollection.

Q. Have you any recollection of having seen Daniel
Parish before you saw Henry Parish, subsequent to his
attack ?

A. I do not remember that fact ; have no doubt I did
see him.

Q. Why have you no doubt that you did see him ?

A. Because I have reason to believe he was in the city,
and am very sure he would have called at the office if he
was in the city ; my reason for believing he was in the city 1243
is, because I read it in Mr. Kernochan's evidence.

Q. Is that the only reason for your so believing ?

A. Another reason is, that from my knowledge of Mr.
Parish's character, I think he would not stay away from
the city many days after such an event ; I have no other
reasons in my mind at present.

Q. Have you no recollection of any act, or interview, or
conversation in which Mr. Daniel Parish took part, or at
which he was present, between the time of the attack and
your first interview with Henry Parish ?

A. That question appears to me very easily answered ; I
have not.

Q. Was the interview held by you with Mr. Delafield 1244
at the office of H. and W. Delafield, between the 12th and
20th of August, 1849, the first interview that you had had
with any person concerning Mr. Henry Parish's trunk, or
its contents, subsequent to his attack ?

A. It was the first interview I had had with any one in
relation to the removal of the trunk and its contents, but I
think I may have conversed with Mr. Kernochan about the
trunk and contents.

Q. Have you any recollection that you so did ?

A. I have no positive recollection.

Q. What is the best recollection that you have ?

A. I have no recollection that I did ; I only say I may
have done so, because I think it more than probable.

1245 Q. Between the attack and the interview at the office of the Messrs. Delafield, had you made or received any verbal or written communication to or from any person respecting the trunk of Henry Parish, or any of its contents?

A. To the best of my memory, no.

Q. Is your recollection very good on that subject?

A. It is very good on that subject.

Q. Did you open or get access to this trunk between the time of the attack and the interview at Messrs. Delafield's office?

A. I do not remember; if anything made it necessary to have access, I did open it; it was at a season when we were not receiving our interest, but still on the 1st of August it is very likely I went to it; I have no memory on the subject at all.

1246 Q. When you sent word to Mr. Delafield after this interview with him, that if he would send a written order for the trunk, he could have it, did you communicate to him the fact that you had already taken the will out of it?

A. I did not.

Q. By whom did you send this word to Mr. Delafield?

A. I think by our office boy; I don't recollect his name; I don't know whether I sent it by a verbal message or by note.

Q. Where was the will kept from the time you took it out of the trunk on that day till you returned the will to the Phoenix Bank?

A. In my personal possession, in the breast pocket of my

1247 coat.

Q. Before taking that will from that trunk and putting it in your pocket, did you confer or converse with any person respecting the matter, or inform any person of what you were about to do?

A. I did not, to the best of my recollection.

Q. Is your recollection clear on that subject?

A. Pretty clear.

Q. Why did you not?

A. I do not know; I did not care for any one's advice about it, and very probable or likely there was no one in the office whom I wished to consult.

Q. When and to whom did you first mention that you 1248
had taken or kept this will as stated?

A. I do not remember.

Q. Do you remember any person to whom, or any time
at which you mentioned it?

A. I do not, except to Mr. Francis Griffin at about the
time the inventory was taken of the trunk.

Q. Why did you not mention this circumstance to Mr.
Kernochan or to Mr. Daniel Parish?

A. I cannot give the reason why, as it is possible that I
did so mention it; in one of my former answers, I said I
did not remember as to whom I mentioned it, or whether
I ever did, or something like that.

Q. Why did you not tell Mr. Delafield that you had 1249
taken out the will, when you sent him word that he could
have the box?

A. I did not think it necessary so to tell him.

Q. Had you any other reason?

A. I don't think I had any other reason for not telling
him.

Q. Have you any recollection that you told Mr. Kerno-
chan or Mr. Daniel Parish, that you had taken the will out
of the box?

A. I have no recollection to that effect.

Q. Have you any recollection of any reason for your not
telling them?

A. I have not; I had no reasons for not telling them.

Q. Why did you take the will out of the trunk and keep
it in your pocket? 1250

A. Because I was determined not to give it up until I
was satisfied that in giving it up I gave it into the right
hands, and was satisfied that I was doing right in so giving
it up.

Q. To whom did you suppose it might be given up, if it
remained in that trunk?

A. I supposed it might be given up to Mrs. Parish; from
what I was told of Mr. Parish's condition I did not believe
he could make any use of it.

Q. What had you been told, and by whom?

A. I had been told I think by Mr. Kernochan, but I am
not positive, that Mr. Parish was very low, or words to that

1251 effect, and it would not be surprising if he should die at any moment.

Q. Wont you say if that is all you had been told?

A. That is all, to the best of my memory.

Q. Had you heard that from more than one person?

A. I do not remember.

Q. Have you any recollection that any one but Mr. Ker-nochan had told you that?

A. No, and I am not positive that it was he.

Q. Are you positive that you had been told of that by any one?

A. My memory is pretty clear upon that subject that I had.

1252 Q. Was that all that you had heard concerning Mr. Parish's condition from the time of his attack till you took the will out of the trunk; if not, state what else?

A. I think it was, but I am not positive.

Q. Why were you determined that the will should not be given up to Mrs. Parish?

(Mr. O'Connor objects to the question, as assuming a statement by the witness which he has not made—question allowed.)

A. For the same reasons that I was determined it should not be given up to others; I would not have given it up to Mr. Daniel Parish, and I knew more of him than I did of 1253 her, and I thought it would not be right in me to give it up to anybody, unless taken from me by due process of law, which Mrs. Parish could have done I had no doubt, if she could have proved the soundness of Mr Parish's mind, and which in my interviews with her I had more than once proposed that she should do.

Q. Why would not you have given it up to Daniel Parish?

A. For the very same reason that I would not have given it up to Mr. Henry Parish's sister, thinking that he had no right to it.

Q. Why did you take it from your pocket and return it to the bank the next day?

A. Because I considered it the safest as well as the most proper place where I could put it. 1254

Q. What had happened between the time you took it out of the trunk and returned the trunk to the bank without it, and the time you returned it to the trunk in the bank, which led you to replace it?

A. Nothing but the result of my intermediate consideration of the subject.

Q. Have you found or searched for the written order for the trunk, which you mentioned in your direct examination?

A. I have neither found or searched for it, having handed it to Mr. Ogden for examination; I am of opinion that it was not handed back to me.

Q. You have stated that the signature to that order was somewhat like Henry Parish's, did you at the time believe it to be Mr. Parish's signature? 1255

A. I did not believe it to be his voluntary signature.

Q. What do you mean by that answer?

A. I mean that his hand, if it ever directed the pen which made it, was controlled by a mind other than his own.

Q. Did you make that out from the handwriting of the signature?

A. From the handwriting of the signature or the signature, not from the body of the document.

Q. Will you explain what there was in the signature from which you inferred or judged that it was not a voluntary signature?

A. From its distorted appearance and from ideas I had of his incapacity for doing such things. 1256

Q. On what were these ideas founded?

A. They were founded upon my knowledge from general conversation of the effects of paralysis, and the recent date of its occurrence with Mr. Parish?

Q. With whom were those general conversations?

A. With whomsoever I happened to meet at home or abroad; the subject was frequently brought up.

Q. Had any one ever described to you the extent of the paralysis of Mr. Parish?

A. They had, in informing me of his low condition, as I said before, which was undoubtedly the effect, or known to be the effect of paralysis.

1257 Q. Have you given, as nearly as you can, the words in which this information had been conveyed to you?

A. To the best of my memory, I have.

Q. Have you mentioned as distinctly as you can the person or persons from whom you received that information?

A. I think I have.

Q. Did you at any time hold a power of attorney from Mr. Henry Parish?

A. I think I have; a special power of attorney for a specific object; I don't remember the time; it was to carry out a specific object, during some temporary absence, so I think.

Q. Other than that, did you ever hold any power of attorney from Mr. Parish?

A. I have not, to the best of my memory.

Q. Without reference to the question whether the signature for the order for the trunk you have mentioned, was voluntary or involuntary, did you at the time believe that it was made by Henry Parish?

A. I do not recollect that I formed a very definite opinion upon the subject.

Q. Did you show that order to any person other than Cashier Ogden?

A. I do not remember the fact of my doing so; to the best of my recollection, I did not?

Q. When Mr. Ogden said he would send up the trunk on that order, what made you to intervene and take it up yourself?

1259

A. Because in taking it up myself, I was very certain I should bring it back; and if he sent it up, it never would come back.

Q. What did your certainty that you should bring it back grow out of?

A. Because I had no idea of being satisfied that M Parish wanted it.

Q. What did your certainty, that if Ogden sent it up, it never would come back, grow out of?

A. From an idea that Mrs. Parish was determined to get hold of it, in some way or other.

Q. Where did you get that idea from?

A. That idea first originated in my mind when Mr. Dela-1260 field refused to send a written order for it ; I then thought he did not wish to take the responsibility of her getting it ; and the subsequent written order being of a questionable character in my mind, I had the idea she was determined to get possession of it, and would, if possible.

Q. Was there anything else that contributed to the origin or growth of that idea ?

A. Nothing else to my knowledge.

Q. Was it wholly your own conclusion upon the two facts that you have mentioned ?

A. It was entirely so ; I had wished for advice upon the subject from a party, but had not received it.

Q. Had you expected any such advice ? 1261

A. I had expected that I should have been advised with, or that a request for advice would have been more or less supplied or complied with.

Q. From whom had you expected it ?

A. From Mr. Daniel Parish, the only party from whom I would have taken advice at that time.

Q. How and when was the request made, or from what did your expectation arise ?

A. The precise time I do not remember, but I had mentioned some facts or some occurrences to him in relation to my operations in this matter, Mr. Parish's matters, and he very decidedly informed me that he had nothing to say upon the subject ; and he never did give me any advice whatever in relation to the affairs or business upon which 1262 I was engaged for Mr. Parish ; and I was sometimes much provoked at his not doing so.

Q. Does your last answer refer to matters of Mr. Henry Parish's business in general and antecedent to the attack ?

A. It has reference to his business from the time of his attack to the day of his death.

Q. What were the operations of yours in this matter, Mr. Parish's matters which you had mentioned to Mr. Daniel Parish, prior to this time of carrying up the trunk ?

A. I think one of the operations was in regard to the written order I had received and my taking it to Mr. Ogden ; the others I don't recollect ; I think that was spoken of to him at the time ; but I am very uncertain on that point.

1263 Q. Did you show Mr. Daniel Parish the written order at that time?

A. I do not remember.

Q. What is your best recollection?

A. I have no recollection about it.

Q. Did you tell Mr. Daniel Parish that you were going to take the trunk up?

A. I do not remember.

Q. What is the best of your recollection?

(Mr. O'Connor objects.)

A. I have no memory on the subject.

Q. When you reached the house, on the 25th of August, into what room were you first introduced?

A. A small room, I think on the first or principal story above the basement; something I shall call a boudoir; I think I went up one flight of stairs; may have gone up

1264 two.

Q. Who showed you into the room?

A. I do not remember who; I think the servant who admitted me into the house threw the door open for me.

Q. Who was in the room when you entered?

A. Dr. Delafield and Mrs. Parish.

Q. During your whole visit on that day, did you see any other persons than Dr. Delafield and Mr. and Mrs. Parish, with the exception of servants?

A. I do not remember that I did.

Q. Did you see either William or Henry Delafield there?

A. I do not now remember that I did; at all events, not in the room where I saw Dr. Delafield and Mrs. Parish.

1265 Q. Were you acquainted with Dr. Delafield?

A. I knew him by sight.

Q. Who spoke first as you came into the room?

A. I don't know.

Q. What did you say, if anything, in regard to the trunk when you set it down or otherwise brought it to the notice of Mrs. Parish?

A. I do not remember that I said anything.

Q. What was the first question asked by you of Mrs. Parish, or by Mrs. Parish of you, whichever spoke first, that you recollect?

A. I think my first was asking to be admitted to see Mr. Parish. 1266

Q. In what form did you make this request—give the language as near as you can?

A. I do not remember the exact words; it was merely a request to be admitted to see Mr. Parish.

Q. Was this the form of your expression: "I wish, or I want, to see Mr. Parish?"

A. I think not.

Q. Can you give your expression more nearly than that would be?

A. To answer that I should have to go into the regions of probability and conjecture, which I am prohibited going into.

Q. Give her reply to your wish to see Mr. Parish, as nearly as you can? 1267

A. I do not recollect that she made me a direct reply to that question.

Q. Give any reply that she made?

A. I think that she said that any business subjects brought before Mr. Parish irritated or excited him very much, and it would not do for me to be admitted, or much to that effect; I do not, at this instant, recollect further.

Q. What did you say to that?

A. I do not, at this instant, recollect; and I would here explain that this close and difficult examination for me makes it almost impossible for me to concentrate my mind upon these questions of exact time and exact answers to questions put in my interview with Mrs. Parish, as similar questions and similar answers were given at my two visits of the 25th of August and the 4th of October; I may con- 1268
found one with the other.

Q. Have you any further answer to make to the last question?

A. I do not recollect that I made a reply to that expression of hers, and I may be mistaken as to this statement of Mrs. Parish's occurring so early in our interview.

Q. Whether it occurred early or late, what did you say in reply to it?

A. I do not now remember.

1265 Q. What was the next step in the conversation after this statement of Mrs. Parish?

A. I do not now remember the order of the questions and answers.

Q. What is the next step that you do recollect?

A. I recollect of saying that if I was admitted I should bring no matters of business before him, or ask him no questions on business; I have got out of the track of this,—my memory is confused by this cross-examination; in the order of my narrative, my mind went right on, in the succession of events as they occurred, but now my mind is fatigued and I cannot concentrate my memory upon these
1270 events of our interviews.

[Mr. O'Connor requests the Surrogate to note the fact that the witness has been under cross-examination from 10 A. M. with the exception of a recess of twenty minutes, till this time, 40 minutes past 5 P. M.]

Q. Is that the only answer you can make to the last question?

A. It is the only answer I can now make.

Q. What is the first subsequent step in the conversation that does now occur to you?

A. I think that her first question previous to that, was, what motive have you in wishing to see him, or words to that effect; my reply was, my motives were of a general character, first as a friend, and to test or judge of his mind
1271 and health.

Q. What was the next subsequent step in the conversation after Mrs. Parish's statement to you that conversation on business matters irritated or excited him very much?

A. I cannot now remember that or hardly any of the circumstances of that interview or any of the subsequent ones, for my mind is in a perfect chaos of confusion, owing to the fatigue of mind consequent upon the cross-examination of a day.

Q. What is the first thing after what has already been stated on the cross-examination which occurred at that interview, that you can recollect?

A. She told me that he was fretting about papers in the trunk, and so forth ; I stated that if she would admit me I should go in, in the character of a physician, and if he was fretting or excited about papers, I should be able to ease his mind upon that subject.

Q. What answer did Mrs. Parish make to that ?

A. I think it was then she asked me if I wanted to ask him any question on business.

Q. What was your reply to that question ?

A. I said I did not ; but the whole matter is so indefinite I must beg to be excused ; I do not feel well, either.

Question repeated, and the witness answers, I do not now remember. 1273

The examination is adjourned, six o'clock, the regular hour for adjournment having arrived.

Geo. W. Folsom.

Subscribed and sworn before }
me, June 7, 1856.

A. W. BRADFORD,
Surrogate.

1264 June 9, 1856.—Parties present.

George W. Folsom being further *cross-examined* by Mr. Evarts, says:

In explanation I desire to say that I would here correct my evidence. The date of my visit to Mr. Henry Parish's house in company with Daniel Parish was given as on the 9th of October, it should have been the 16th; and my visit in company with Mr. Sherman was given as made a few days after, should have been as made on the 9th of November; these errors I discovered by reference to the minutes
 1265 kept by me at the time the events occurred given in my narrative; what I am now going to state is corrected, not by reference to minutes, but from memory; to question by Mr. O'Connor, if after the will was given up I had any conversation with Mrs. Parish in presence of Mr. Parish in the carriage, when the will was referred to, I replied that I do not remember that I did; it has since come to my mind, that on one occasion when Mr. Parish continued those gestures with his hand, I asked if he wanted his will; he made an affirmative nod of the head; I said in effect, you have it already, and Mrs. Parish said, as near as I can remember, "Why, Henry, you know it is home;" to
 1266 a similar question as to his wanting the trunk, his reply was the same affirmative nod, when Mrs. Parish told him as before, that it was home, or that he had it already, or something to that effect.

Q. At your first interview with Mr. Henry Parish, how long were you in the room with him?

A. I should think not much over 15 or 20 minutes.

Q. Have you narrated all the conversation addressed to Mr. Parish by yourself or Mrs. Parish, and all that passed
 1267 between Mrs. Parish and yourself during this interview in Mr. Parish's room?

A. I believe I have, with the exception of some few words in relation to the cause of my considering him of unsound mind, and so forth.

Q. To whom were those words addressed, and what were they.

A. They were addressed to Mrs. Parish and were in substance as follows: that from his inability to make himself

understood, or express himself, I thought he was of unsound mind. 1268

Q. Have you any recollection that during that interview you expressed any other reason for any opinion as to the unsoundness of his mind?

A. I do remember that there was another reason immediately preceding this and in connection with it, expressed by me.

Q. Please state what you then so expressed.

A. It was to the effect—the exact words I can't repeat—that he, Mr. Parish, was evidently unable to properly understand questions, and if able to understand them, could not give direct answers thereto.

Q. Have you any recollection of having expressed at that interview any other reasons than those thus far stated? 1269

A. I am very positive I did not.

Q. What was Mr. Parish's condition of bodily health and strength, as you observed it in that interview?

A. He appeared to be very weak, languid, and the manner in which his hand was turned over to me was such as to give me the idea that he was very low or very feeble.

Q. Did you observe from his manner with his hand that he was unable to raise it from his knee?

A. I did not then think of it in that connection, as to his ability to raise it; but from the motions of his hand at subsequent interviews I now think it was altogether from weakness.

Q. What was the light in the room, and how did Mr. Parish act in reference to the light? 1270

A. My memory in regard to the light is not very distinct; my impression is, that it was a subdued light, and that he sat in a chair with his face inclined obliquely toward the corner of 17th street and Broadway, and that the light came from 17th street; but this opinion is not very strongly based.

Q. How did he sit in reference to the door at which you entered?

A. With this back towards the door, or nearly so; not exactly.

Q. How in reference to the bedstead in the room?

A. I do not recollect that there was one in the room.

1271 Q. In what kind of chair did he sit, and how was he arranged or supported in it?

A. I don't remember.

Q. Did you observe in regard to his sense of hearing at that interview?

A. It appeared to me that he heard very distinctly any thing that was said.

Q. Did he hear it immediately or did it require repetition?

A. I think he heard it immediately and without repetition.

Q. From what did you judge that he heard distinctly and immediately what was said to him?

A. From his making a movement or nod immediately
1272 after a question was put to him.

Q. Did you observe in respect of his sense of sight at that interview?

A. I did not, further than to observe a blankness; a blank expression of the eyes.

Q. Did you perceive whether he recognized you, and if so, when and from what?

A. I do not recollect that I perceived that in any other way than from his turning his head over.

Q. Did you perceive that he turned towards you?

A. I did perceive that he turned towards me.

Q. In what way and to what extent did he make that movement?

A. He merely turned his head towards me.

1273 Q. Was that so as to bring you within his sight?

A. It brought me immediately in front of his face.

Q. How quickly was this motion of his head, after Mrs. Parish's saying to him, that you had called to see him?

A. I don't remember.

Q. How many questions did you put to Mr. Parish during that interview?

A. There were four questions altogether, I think.

Q. Did he make response of some kind to each of them, and if so, how quickly after they were asked?

A. He did, and I think very soon after they were asked.

Q. Were the movements of his head in response to your 1274 questions, feeble or vigorous?

A. I think they were not vigorous.

Q. Was there any difference in this respect, in those movements or were they all of the same degree of vigor?

A. I do not now remember that there was any striking difference between them.

Q. Can you give the language of your first question to Mr. Parish at that interview, in respect to property?

A. I think I can, very nearly.

Q. Please to give it?

A. "Mr. Parish, in case anything should occur to you, do you wish this property to revert to your wife," or "Mrs. Parish?"

Q. Did you indicate what you meant by "this property" in any other manner, than by the use of these 1275 words?

A. I may in reference to the particular words "this property," have said "this Union Square property."

Q. Have you any recollection that you did so say?

A. I have none.

Q. Can you give the words of your next question referring to the same property?

A. I said, "Mr. Parish, in case of your death, do you wish to give this property to Mrs. Parish?"

Q. Please state what your two questions to him were, in reference to the Wall street property in the order in which you put them?

A. These were given in the same order and the same 1276 words as those relating to the Union Square property, except in describing the property I called it "the Wall street property."

Q. Were these the four questions you have referred to as the only ones you put to Mr. Parish at that interview?

A. I think they were.

Q. How many questions did Mrs. Parish put to Mr. Parish during that interview?

A. I do not know how many, but I remember four.

Q. Do you remember that there were any more?

A. I do not.

1277 Q. Give the language of the first question she put to him?

A. "Did you not give me in your will the house or property in Barclay street?" as near as I can recollect.

Q. What was the next question that she put in relation to that property?

A. I do not know the words; it was the same question in a different form.

Q. How are you able to recollect one and not the other?

A. Because I did not pay particular attention to the phraseology of the second.

Q. How are you able to say that there was any difference in the phraseology of the two questions?

A. Because I remember that when these different questions were made by her, she had done that which she had blamed me for in my questions, or rather rebuked me for, that is, had not put the first question right.

Q. State the language of her two questions in regard to the Chambers street property in the order in which they were put by her?

A. The first question was: "In your will do you not give me the Chambers street property;" the second was the same question expressed in a different form; the little difference I do not recollect.

Q. From what do you recollect that there was a difference in form in the last mentioned questions?

A. From the same reasons as expressed in my answer in regard to the questions concerning the Barclay street property.

1278 Q. In your first question to Mr. Parish, what did you mean by the property "reverting to" Mrs. Parish?

A. I meant, in case of his death, that she should get it by will or otherwise.

Q. In your selection of the phrases for your second question the same subject, did you intend any other meaning than you intended in your first question?

A. I did not.

Q. To whom did you address at that interview your expression of opinion in respect to Mr. Parish's capacity and mind for transacting business, which you mentioned in your direct examination, and the reasons for that opinion which you have mentioned in your cross-examination?

1279

A. To Mrs. Parish.

1280

Q. While you were speaking to her in doing this, did you look at Mr. Henry Parish?

A. I do not know that I did.

Q. After this statement to Mrs. Parish, did anything further occur in the presence or in the room of Mr. Parish?

A. I don't remember that there did.

Q. Where was the trunk during this interview in Mr. Parish's room?

A. In a corner of the small room into which I was first introduced.

Q. In your first question to Mr. Parish did you say "should anything occur to you this week," or otherwise limit the time to which your question referred?

A. I did not.

Q. Did you at this interview say anything to Mr. Parish 1281 about the tin trunk, or your having brought it?

A. I did not.

Q. Did you ask him whether he wanted it, or anything in it?

A. I did not.

Q. Did you in any way get or perceive any response or information from him whether he wanted his tin box, or anything in it?

A. I did not.

Q. Had any time or hour been fixed by you for your visit to Union Square on the 25th of August?

A. To the best of my recollection I had not fixed any time.

Q. Had any appointment been made by or with you in 1282 reference to meeting any of Mr. Parish's physicians at such visit?

A. There had not been.

Q. Are you positive that no time had been named or notified by you when you would call?

A. I do not recollect that any hour had been named.

Q. How long was Dr. Delafield present at your first interview with Mrs. Parish on that occasion, and at what stage of the conversation did he leave?

A. I should think about fifteen minutes; and he left soon

1283 after Mrs. Parish's first refusal to admit me to Mr. Parish's presence.

Q. Did anything pass between you and Dr. Delafield directly on the subject of your seeing Mr. Parish?

A. There did not.

Q. Did you hear Dr. Delafield say anything in respect of your seeing Mr. Parish, except what you have stated in your direct examination?

A. I did not.

Q. Is your recollection on this subject of what passed on the part of Dr. Delafield as distinct as of any other occurrences at that interview?

A. I think it is.

Q. When you said to Mrs. Parish at this first interview, "I know what you want, you want this property," what 1284 knowledge had you as to her wishes, and how was it derived?

A. I do not remember.

Q. Had you any knowledge?

A. I can only judge that I had from what I said; I have no memory upon the subject at all.

Q. Had you ever heard anything from her on that subject before?

A. I do not think that I ever had.

Q. Had any other person ever spoken to you before that time about her having that property?

A. I do not remember that any one had.

Q. How and when did any conversation prior to that time, between you and Mr. Kernochan, or any observation 1285 by you to Mr. Kernochan respecting Mrs. Parish having that property arise, and what was it?

A. I have no knowledge as to the time of its occurrence, or that it did occur; in that answer I went into the regions of probability: I thought it probable and so expressed myself.

Q. Do you mean that at the time you spoke to Mrs. Parish you thought it probable that you had had such a conversation with Mr. Kernochan, as you then stated to Mrs. Parish you might have had?

A. I don't know what my thoughts were on the occasion; I answered then as I should now to the question, merely thinking it possible.

Q. Do you mean to say that at the time you made that 1287 communication to Mrs. Parish, you spoke without any recollection, and from a mere probability?

A. I think I did.

Q. What had ever passed between you and Mr. Henry Parish in reference to his wife's having that property, or any disposition of it by him?

A. Nothing, to the best of my memory.

Q. If you had no recollection at that time of anything having passed between you and Mr. Kernochan, or between you and Mr. Henry Parish, or between you and Mrs. Parish in regard to that property, how came you to introduce the subject as you did?

A. I introduced the subject in reply to what Mrs. Parish said she had heard; she said she had heard I had said so 1287 to Mr. Kernochan.

Q. I mean by my question, how came you to introduce the subject of the Union Square property, which you did by your first observation to her?

A. Because I had the idea in my mind that she wanted the Union Square Property.

Q. Upon what was the opinion which you expressed at that interview as to Mr. Henry Parish's intentions concerning that property founded?

A. I do not know.

Q. Did you have such an opinion as you expressed at the time you expressed it?

(Mr. O'Connor objects to this question.)

A. I did.

Q. Can you give no reason whatever for your then hav- 1288 ing that opinion?

A. I can give a reason for then having that opinion.

Q. State it.

(Mr. O'Connor objects to this question.)

A. Because I did not believe Mr. Parish would adopt any other course than to give that house which he had had built for her to her—at least for her life-time.

1289 Q. How did you know that he had built it for her?

A. Because he had frequently expressed himself that he anticipated no extra pleasure from the new house—that he would rather live in the Barclay street house than to go into it; from that I judged he must have built it for her.

Q. Did you never hear him say anything further in regard to the house being for his wife, or to please her, or to that effect?

A. I have not yet testified that he ever did say anything to that effect; I have merely drawn conclusions.

Q. Did he ever say anything to that effect?

A. I do not remember that he ever did.

Q. Did you during this interview observe to what extent and in what parts of his body, Mr. Parish was paralysed, and if so, state it?

A. I think I did; I observed that the right side did not appear to be free in motion and so forth—from not using that side, arm, leg, and so forth.

Q. After leaving the house at this interview, did you state to any person what in whole or in part had occurred during your visit?

A. I do not remember that I did.

Q. Can you say that you did not to any person?

A. I think I should come nearer if I should say that I had, but I don't remember distinctly; but I have no doubt I told it to my wife.

1291 Q. Did you mention the fact that you had made this visit to any person, other than your wife?

A. I do not remember that I ever did.

Q. Did you never by word or writing inform Daniel Parish that you had made that visit?

A. I do not remember that I ever did.

Q. Did you ever, to Mr. Kernochen?

A. I do not remember that I ever did.

Q. Did you ever to any member or connexion of Mr. Daniel Parish's family?

A. I think I did write about the interview to Mr. Sherman.

Q. Are you sure that you did write to him?

A. I am sure I did write to him and did describe either that interview or the subsequent one of the 4th of October

Q. How soon after this first interview did you write this 1292
description to Mr. Sherman?

A. If the description was of that interview, as I think
it was, the letter was sent to him very soon afterwards.

Q. Did you have any interview with Henry Parish on
the 4th of October?

A. No, I did not; I spoke and had reference to the visit,
therefore I think the description was of the first interview.

Q. How soon after this first interview did you see Mr.
Daniel Parish?

A. I have no idea.

Q. What is the earliest day that you recollect?

A. I do not now remember anything about it. 1293

Q. Have you no recollection of having seen him in Sep-
tember?

A. Yes, I think I have, or early in October, I am sure
of that when I went up with him to Henry Parish's house,
I think on the 16th of October.

Q. Prior to your visit to the house with Mr. Daniel Par-
ish in October, did he know that you had been there be-
fore?

A. I can only say what is probable on the subject; I
have no memory about it?

Q. Have you no recollection of any mention or reference
to your first visit, being made by you to Daniel Parish; or
by him to you, during that interval, between the 25th of
August and the 16th of October?

A. I do not remember saying anything to him, or his 1294
saying anything on that subject.

Q. Did you not tell Daniel Parish that you had seen his
brother Henry?

A. I do not remember; and I may as well state here,
Mr. Daniel Parish showed from the beginning an evident
reluctance to have any conversation whatever with me on
the subject of Henry Parish's affairs.

Q. Did Daniel Parish at no time between the attack and
his visit with you to Union Square, ask you if you had
seen his brother?

A. I do not remember that he did.

Q. Did he never during that period ask you about his
brother, his health, or his condition?

1295 A. I do not think he did ; his general avenue of information on that subject I think was Mr. Kernochan, who visited Henry Parish's very frequently.

Q. How do you know that ?

A. Because I am very sure having heard Mr. Daniel Parish inquire of Mr. Kernochan when he was told by Mr. Kernochan that he saw his brother the day before, or words to that effect, how he appeared to be, or words of similar import.

Q. During the interval between your first visit to Mr. Parish and the time of your call at the house with Mr. Sherman, did you have frequent written or verbal communications with Mr. Sherman concerning Mr. Henry Parish,
1296 his affairs, health, or condition ?

A. I think there was but one letter from me to him, and one from him in reply ; but when I saw him our conversation was generally upon that subject, I telling him what I had heard, and he also speaking of what had happened.

Q. Where were these interviews, and how frequent ?

A. They were at our office, and much like angel's visits, few and far between ; but I have had in Orange County, in my visits there for a day or so, conversations with Mr. Sherman, in which I think the same subject was introduced.
1297

Q. What were the occasions of your visits to Orange County, in which you saw Mr. Sherman ?

A. Having a wife, daughter, mother, lying buried there, and probably one hundred connections by marriage residing there ; I cannot indicate the precise object which called me there ; I mean mother-in-law, instead of mother.

Q. At the time of these visits were you a widower ?

A. At some of them I was ; my wife died in 1849 ; one month after Mr. Parish's attack ; in August, 1849.

1298 Q. Up to what time did these visits to Orange County continue ?

A. Up to this time, or rather to last summer or fall.

Q. How many visits to Orange County did you make between the attack of Mr. Parish and the time of your calling with Mr. Sherman at his house ?

A. I do not know ; not more than one or two ; perhaps not more than one.

Q. When you returned the trunk to the bank and made 1290 a deposit of it, as by yourself, as stated in your direct examination, had you received instructions or authority of any person so to do ?

A. I had not.

Q. How soon and from whom after that did you learn or hear that Mrs. Parish had produced a will, or copy of a will, and that a codicil had been added as you stated in your direct examination ?

A. In a few days, and those few days must be, I think, between the 25th of August and the first of October; probably not over twelve days after the 25th of August; I have no idea from whom I heard it.

Q. Did you hear it from Daniel Parish or from Joseph 1300 Kernochan ?

A. I am very sure I did not hear it from either of them, and I think it was on my way to the Bank in Wall street, or at the Phoenix Bank; some one told me.

Q. Do you remember whether it was from a person unconnected with the family or relatives of either of the Messrs. Parish ?

A. I think it was; but I have no positive recollection as to whom it was from.

Q. What is your best recollection on the subject ?

A. My best recollection is, that it was from some acquaintance of mine whom I met in Wall street.

Q. Was that the only way, and he or she the only person, 1301 from whom you heard what you have stated about the will and the codicil ?

A. I think it was.

Q. Do you remember whether it was a man or a woman that gave you this information in Wall street ?

A. I don't remember that it was a man, but I can swear it was not a woman.

Q. After receiving this information did you mention or refer to it or the subject of it, to any person in your office or out of it ?

A. I do not remember that I did; I am inclined to think that I did not.

Q. Why did you not mention it ?

A. Because I was not in the habit of telling in the office

3 02 or out of it anything I heard connected with Mr. Parish's matters.

Q. Did this habit of not telling extend to Mr. Daniel Parish and to Mr. Sherman as well as to others?

A. To a much greater degree with Mr. Daniel Parish than with Sherman.

Q. Do you mean that it did not extend to Mr. Sherman at all?

A. No, I do not. My interviews with Mr. Sherman were very rare—of rare occurrence; and I did not think it necessary to be very choice or particular in my remarks to him in reference to Mr. Henry Parish's matters.

Q. To what degree did this habit of not telling extend to-
1303 wards Mr. Daniel Parish?

A. The evident reluctance of Mr. Daniel Parish to make any comments to me in regard to any course I had pursued in relation to Mr. Henry Parish's matters, neither encouraging nor discouraging me to proceed in the course I had selected for myself in the furtherance of what I considered right and justice to all parties concerned, caused me to be less communicative of the affairs just spoken of.

Q. How did Mr. Daniel Parish exhibit this reluctance, and did he give any reasons for it?

1304 A. Because he knew or must have known of many or some of my transactions, and on my asking him on some occasions and I think on one occasion I remember that a note came to the office directed to Mr. Joseph Kernochan on the envelope, requesting him to place to Mrs. Parish's credit—the note was from her—in the Phoenix Bank, I think about \$6000. Mr. Kernochan opened the note, and expressed himself at a loss what to do about it, as Mr. Kernochan could not have deposited the \$6000 to her cre-
1305 dit, unless he had got it from some other source than the revenues of Mr. Henry Parish at that time. He handed the note to Mr. Daniel Parish, who sat next to him, asking his opinion about it; Mr. Daniel Parish expressed the idea that he had nothing to do with it, and passed the note to me; I then asked the opinion of those gentlemen what had better be done about it. Mr. Kernochan remarked, "why you will have to deposit it of course," or words to that effect; Mr. Daniel Parish said to the effect, I can't

give the exact words, that he had nothing to do with it. I 1306 then remarked that I should do no such thing, and replied to Mrs. Parish's note, by saying that her note to Mr. Kernochan of this date was handed me for answer, and that I should have to decline placing that amount to her credit in the Phoenix Bank; but that I had deposited there, to her credit, I think, \$2500, which I trusted would be sufficient for her current expenses.

Q. About what time was this?

A. I have no direct idea, but I think it must have been in August or September, 1849; I am entirely at a loss as to the date of it.

Q. Where did you get the \$2,500.

A. As I received all his revenues at that time, it must have come in that way; when I say *all* his revenues, I 1307 mean, except those which came from property owned by him in company with Mr. Kernochan.

Q. Where, and to whose credit did you deposit these revenues?

A. Up to the first of January, 1850, they were generally deposited in the Phoenix Bank, to liquidate a note of Mr. Henry Parish, of \$50,000.

Q. This \$2,500; from what was it then presently drawn to be put to the credit of Mrs. Parish?

A. I do not remember, but it must have been from rents or interest collected by me, and then in my possession.

Q. These rents and interest, then in your possession, how were they kept and deposited before you placed this sum to the credit of Mrs. Parish? 1308

A. They were generally handed to Mr. Kernochan, that he might endorse those which required endorsement; then he or I would deposit them against that note at the Phoenix Bank; and it might have been through Mr. Kernochan in that way, that the deposit was made for Mrs. Parish.

Q. Do you mean that it was done by Mr. Kernochan's check?

A. It may have been done in that way, or it may have been done by the way I have mentioned in my last answer.

Q. Had you any occasion to have access to the trunk of

1309 Mr. Parish at the Phoenix Bank, at the time you on the 21st September told Mr. Ogden, you should want it?

A. It was necessary that I should have access to it at that time, or at the time indicated to Mr. Ogden when I should want it.

Q. Did you on the 22d day of September, at 12 o'clock, open the trunk, and if so, for what purpose, and what did you do in respect to any of its contents?

A. To the best of my memory I did open it and take out a bond or something of that kind, upon which I collected the interest or otherwise did with it as the circumstance required.

Q. Was the trunk locked when you first saw on that day?

A. It was.

1310 Q. Had you then in your possession, and up to that time retained the key?

A. I had.

Q. What led to your going to Mr. Parish's house on the 4th of October?

A. I do not remember.

Q. Had you been sent for, or been requested to go by any person?

A. I believe not.

Q. What object had you in mind in going there?

A. I do not remember.

Q. Do you remember that you had none?

A. I do not.

1311 Q. Had you then already heard that Mr. Henry Parish had been afflicted with disease of the bowels?

A. I had not until at that interview.

Q. At what hour of the day was that visit?

A. I do not recollect; it was either half-past ten A.M. or one o'clock P. M., I think, or near those hours.

Q. Cannot you at all recollect whether you went of your own motion or by suggestion from some one else?

A. I cannot distinctly remember, but I think of my own motion.

Q. Can't you at all recollect whether you had any object of business which induced you to go?

A. I cannot; but I think it was from a desire to either

see him or learn if there was any improvement in his condition. 1312

Q. In your direct examination you have spoken of a question on the 4th of October from Mrs. Parish as to your motives in wishing to see Mr. Parish in your former visit, that you answered they were particularly to see if there had been any improvement in his mind or health; what had you heard about his mind previous to your first visit, and from whom?

A. The answer that I gave to that question of Mrs. Parish's in regard to my former visit, was not correctly given, or as I intended to give it, in my direct examination; in my first interview when asked that question as to my motives in wishing to see him at that time; I answered first as a friend, and then to judge of his mind and health; in the second call on the 4th of October, when she asked my motives on my former visit, I said they were as to any improvement of his health, which expression came into my mind at that instant by mistake, from having made a similar remark at some other occasion, which accounts for the inconsistency of the answer to the question as to my motives on the 4th of October; previous to my first visit, I do not think I had heard anything definite as to his mind. 1314

Q. What had you heard definite or indefinite from whom?

A. I had heard as I have before remarked that he was considered very low, but from whom I do not know.

Q. Did you understand that description of his condition "very low," as applying to his bodily health?

A. I certainly did.

Q. Did you understand it as applying to any thing but his bodily health?

A. I do not know that I did. 1315

Q. When you expressed to Mrs. Parish at this interview, the 4th of October, a desire that she would take the property out of your hands by an order of the Court, what proceeding did you refer to?

A. I am not lawyer enough to call it by its proper name, I think; my idea in connection with it was for her to do so, that is, take it out of my hands by order of Court, it

1316 would be necessary to call a sheriff's jury to establish the fact of his sound or unsound mind.

Q. Did you express this procedure to Mrs. Parish?

A. I am not sure that I did, at that time.

Q. Had you heard from any body any suggestion of such a procedure?

A. In talking with my friends, the subject of an investigation as to his mind would occur, and I was very desirous to be relieved of any responsibility in his matters when I could do so, and feel that I should be free from blame, or rather that I should do right in the matter; I had frequently heard of such a procedure, and, to the best of my memory, it was 1317 at our interviews spoken of by Mr. Sherman.

Q. What did Mr. Sherman say about it?

(Mr. O'Connor objects to this question as calling for hearsay.)

A. I do not remember the words he used, but it was in general that such an investigation ought to be made.

Q. How early after the attack did you hear such a suggestion from Mr. Sherman?

A. I cannot recollect as to the time of these occurrences, but the subject would naturally come up on board of steamboats or railroad cars by questions or remarks from my friends whom I there met, and all who knew anything about such matters appeared to be somewhat astonished, where so much property was at stake, that that investigation had not taken place; I cannot state how early after 1318 the attack I heard such a suggestion as the question inquires about from Judge Sherman; I have no doubt it occurred at the interview of the 9th of November, but whether that was the first I can't say.

Q. Who were your other friends that spoke with you about it?

A. I don't know.

Q. Had Mr. Francis Griffin spoken to you about it?

A. I think he had not; I think I had not then seen him since Mr. Parish's attack.

Q. Was this suggestion made by you to Mrs. Parish?

about this proceeding made at the request or on the sugges- 1319
tion of any person ?

A. No, it was not.

Q. Can you say whether or not Mr. Sherman had made
this suggestion to you about the proceeding being taken
before your first visit to Mr. Parish ?

A. I cannot say.

Q. Was it before the 4th of October ?

A. I do not recollect,

Q. You have spoken about your being looked to, in case
any of the documents or property in the bank should be
missing ; had any one said or intimated to you that you
would be so looked to or held responsible ?

A. No one had suggested any such thing, but my plain 1320
common sense told me that such would be the fact ?

Q. Had you ever said to any one that you were, or would
be so responsible ?

A. To none other than Mrs. Parish.

Q. Before the 4th of October, had Mr. Sherman requested
you to call and see Mr. Parish, or learn about his con-
dition ?

A. I do not remember ; I have an idea now on my mind
that he did by letter either request me to see him, or call
upon him, or something like that ; I think that was the
case, but am not positive.

Q. Was this visit of October 4th in consequence of that
request ?

1321

A. It has just come to my mind that such was the fact.

Q. After this call, on the 4th of October, did you inform
Mr. Sherman, or any other person, of the fact that you had
called, or of what took place at that call ?

A. If that call was at the suggestion of Mr. Sherman,
then it was that call I spoke of in my letter to Mr. Sher-
man.

Q. What is your recollection as to having informed Mr.
Sherman of this call on the fourth of October ?

A. My best recollection is, that my letter to Mr. Sher-
man gave some of the particulars of my call either of the
25th of August, or of the 4th of October, but I do not know
which.

1322 Q. Did you inform him verbally, concerning your call of the 4th of October?

A. I do not remember that I did, but I have no doubt that I did.

Q. Before you called on the 4th of October, did you inform Mr. Daniel Parish in any manner, that you were about to call at Mr. Parish's house?

A. I do not remember.

Q. After your call on 4th of October, did you inform him in any manner, that you had called?

A. I do not remember that I did.

Q. Do you remember that you did not?

A. I do not remember that I did not.

Q. Did you go to Mr. Parish's house, on the 9th of October?

1323 A. I did not, sir. That date was given by me as having gone with Mr. Daniel Parish, but I think it should have been the 16 of October.

Q. What day of the week was this call of the 16th of October?

A. I do not remember.

Q. What time of day was it?

A. I do not remember; I think it was not far from mid-day.

Q. Where were you when you started to go?

A. I think at the store, 162 Pearl street.

Q. How long, before you started, had you formed the intention of making that call?

A. I do not remember that I had intended it ten minutes before; I am rather of opinion that I went at the request of Mr. Daniel Parish.

Q. Do you recollect that you had not formed such intention until immediately upon or previous to starting?

A. I am not positive on that head.

Q. When was this request of Daniel Parish made to you?

A. If there was such a request from him I think it must have been immediately prior to our going up.

Q. What makes you think so?

A. Because the whole results from the interview, or from the visiting at Mr. Parish's, were not much, and my idea was at the time, and since that Mr. Parish asked me to go

to witness any interview, to prevent any misconstruction 1325
his acts and sayings.

Q. Do you mean by "*misconstruction*," misunderstand-
or misrepresentation ?

A. I mean either misunderstanding, misrepresentation,
both.

Q. Did Mr. Daniel Parish so say to you ?

A. He did not, to the best of my knowledge.

Q. From what did you get this idea that you have ex-
pressed ?

A. I do not now remember exactly.

Q. State as nearly as you can ?

A. Because I had believed for years before that Mrs.
Parish's feelings towards Mr. Daniel Parish and family 1326
were not of the most affectionate character, and that he
would naturally wish to be fortified against any misunder-
standing.

Q. Upon what and how, was this prior belief formed ?

A. For a great many years, various anecdotes or relation
facts, in regard to Mrs. Parish's course towards Mr.
Daniel Parish's family.

Q. Had you yourself observed any conduct of Mrs.
Mary Parish, on which observation this belief rested ?

A. I had not.

Q. How did the movement from the store to start on
the call of the 10th of October commence, and on whose
proposal ?

A. I do not remember. 1327

Q. Was it on your proposal ?

A. I think not, as I have just said ; I think it was on an
invitation of Mr. Daniel Parish.

Q. What did he say before you left the store as to going,
in relation to the visit ?

A. I do not remember.

Q. Can you remember nothing whatever said by him to
you, or you to him, on the subject before you left the
store ?

A. I cannot remember anything ; still I am very certain
that as I had no object myself in going up, the invitation
must have come from him.

1328 Q. On your way up, was there any conversation as to Henry Parish?

A. I do not know.

Q. What is your best recollection?

A. I have no recollection about it, merely an opinion.

Q. Before reaching the house, did you know either what the object of the visit was, or the object of your going with him?

A. I do not know that I did.

Q. Did you ask any question concerning the object of going, or of your going?

A. I do not remember.

Q. Did Mr. Daniel Parish, before you entered the house, say to you that he desired you to go into his brother's presence with him, or to that effect?

A. I have no memory of that fact.

Q. Who admitted you to the house, and showed you to the library?

A. I think a servant did.

Q. Did you see any one in the library while you remained there?

A. I do not remember that I did, any but Mr. Daniel Parish, myself and the servant.

Q. Were the names sent up by cards, or a card?

A. I do not remember.

Q. Do you not remember that it was Mr. Daniel Parish's card, with your name written upon it?

A. I do not remember.

Q. What was the form in which the request to see Mr. Henry Parish was conveyed by Mr. Daniel Parish?

A. He sent up a request to be admitted to see Mr. Parish, but the words I do not remember.

Q. Is your memory generally good and reliable as to matters which rest upon your recollection alone?

A. I think my memory is not very good, certainly not so good in regard to recent events as to those of some years' standing; if it is good on anything, it is on my immediate business duties.

Q. What period of years would you extend the meaning of the word "recent," as used by you?

A. I mean that, for the last five years, if I had bought

ten cases of prints, at different prices, I would fail to give 1331 the prices of them readily.

Q. Do you include the year 1849 within the recent years in regard to which your memory is not so good, or in the earlier time in regard to which it is better?

A. I think it was better in 1849 than it is now, and not so good then as it was some years prior; but, in these matters of memory with me, everything depends upon how the subject to be remembered comes before me; an event upon which my mind has been particularly given, would be remembered perhaps equally well for a longer or a shorter period, but the little uninteresting details of life are very soon forgotten.

Q. What was the form of the answer on the 16th of Oc- 1332 tober brought down after your names were sent up, and by whom?

A. The answer was, Mr. Parish can come up, or will please come up; the former I think was the answer; it was brought by a servant.

Q. Did you send up any word in answer to this?

A. I did not.

Q. What did Mr. Daniel Parish say to the servant?

A. The exact words I do not remember; but it was to the effect that he wished Mr. Folsom to come up with him?

Q. How long did you remain in the library after Mr. Daniel Parish went up?

A. My impression is, it was a very short period, not over fifteen or twenty minutes. 1333

Q. Did Mr. Daniel Parish and yourself return to the office together?

A. I do not remember that we did.

Q. How soon after this visit of October 16th did you see or communicate with Mr. Sherman?

A. It was on the 9th of November, I think.

Q. What then passed between you when you first met, and where did you meet?

A. I have no remembrance of anything that happened prior to our arrival at the door of Mr. Henry Parish's house.

Q. Did you meet there from opposite directions?

A. I do not remember, but I think not.

Q. Did you meet there casually, or by appointment?

1334 A. Upon further consideration I have a faint remembrance that we did not meet there at all, but went up from our office; I have such a faint recollection.

Q. Do you remember how you went up there; whether on foot or riding?

A. I am very sure we did not walk up; if we rode up we went in the cars.

Q. Have you any doubt that you did go together from some place from which you started together?

A. I do not doubt we did.

Q. Have you any doubt that that place was your office?

A. Very little; still I do not positively remember.

Q. What hour of the day did you start to make this call?

A. I do not now remember.

Q. About what time?

1335 A. My answer must be purely imaginery, for I have no memory on the subject.

Q. Did you meet Mr. Sherman, or did Mr. Sherman come to the office upon a prior appointment or notification from you to him, or him to you?

A. I think he came to our office, but I have no idea that he came by any previous appointment or notice.

Q. How was the subject of Mr. Henry Parish introduced between you?

A. I do not remember; I think I could guess if I was permitted.

Q. Do you remember that it was introduced before you left the office?

A. I don't remember, but I know that it was introduced, 1336 if we went from our office to the house, which before was not distinctly remembered, nor is now.

Q. What is the first you recollect having passed between you and Mr. Sherman in reference to Henry Parish on that day?

(Mr. O'Connor objects to the question as assuming that the witness has said something had passed, or that he recollects that anything had passed.)

A. I do not recollect one word that passed between myself and Mr. Sherman that day.

Q. Do you recollect that there was any conversation or words between you on that day before you got to Mr-

Parish's house, and can you state the conversation, or any part of it, or its purport?

A. I do not remember of any conversation, though I am positive there was a conversation; I do not remember one word that passed between us, or the purport, not at all.

Q. Before the door was opened, did you know what Mr. Sherman's object in going there was, or what the object of your going with him was?

A. I do not remember that I knew his motives or object, and my own if I recollect right was to please Mr. Sherman, to the best of my memory.

Q. In what, or by what did you expect to please him?

A. Because I knew that in going with him, I must have gone at his invitation, as I had no particular object in going there myself other than that.

Q. Was it in reference to an interview with Mr. Henry Parish that you expected to please Mr. Sherman?

A. I do not remember.

Q. Who received you at the first door?

A. No one received us—we were turned away.

Q. Who opened the door?

A. A servant.

Q. Who spoke to the servant, and what was said?

A. To my best recollection Mr. Sherman sent up word, asking to see Mr. Henry Parish.

Q. What followed upon that?

A. I must correct that a little by saying that instead of sending the message up stairs when it was given, the servant said that Mrs. Parish's orders were that Mr. Sherman could not be admitted; I then sent up a request from myself to see Mr. Parish, the exact words I don't recollect, and the answer came back that Mr. Parish was then asleep and no one could be admitted to see him.

Q. Where did you remain before this last answer was given to you?

A. Immediately in front of the street door.

Q. After the answer was given to you, what did you do?

A. We backed out, but where we went I don't recollect; we left the door together, but I don't remember whether we returned to the office together.

1340 Q. Prior to this call, did you inform Mr. Sherman of your call on the 16th of October with Mr. Daniel Parish?

A. I do not remember that I did.

Q. Do you remember that you did not?

A. I do not.

Q. After that did you so inform him?

A. I do not remember that I did or that I did not.

Q. Do you remember that you did or did not talk with Mr. Sherman after leaving the house about the call just made?

A. I do not remember that I did or did not.

1341 Q. Do you remember that whether prior to, during, or after this call with Mr. Sherman, you spoke with Mr. Sherman concerning Mr. Henry Parish on that day?

A. I do not remember that I did or did not, but have no doubt I did.

GEO. W. FOLSOM.

Subscribed and sworn before {
me, June 9, 1856,

A. W. BRADFORD,
Surrogate.

June 10th, 1856. 1342

arties present.

George W. Folsom, being further cross-examined, says :

Q. At what time did you first confer with Mr. Francis Griffin, in regard to your relations with the affairs of Henry Parish ?

A. I do not remember.

Q. Can you give no notion of the time ?

A. I should judge it to be not a great ways from the 15th of November ; I rather think before that ; I am not positive ; I think it was not before the 4th of October.

Q. Did you ever confer with any other person, than as you have before stated, in respect to the institution of proceedings, to declare Mr. Parish of unsound mind ? 1343

A. I do not recollect who they were ; I spoke with various persons about it.

Q. Did you ever propose, or hear it proposed, that any other person than Mrs. Parish should institute such proceedings ?

A. No further than I have proposed it myself, to my collection.

Q. To whom did you propose it ?

A. I think I proposed it to Mr. Sherman, and to Francis Griffin ; that is, the question was talked of ; I think this was before I first proposed it to Mrs. Parish ; nothing was done at I ever knew upon the conference on this subject with Mr. Sherman and Mr. Griffin ; I never, to my knowledge, made any written statement in the form of affidavit or otherwise, in reference to such a proceeding ; I do not remember up to what period my repeated propositions on this subject to Mrs. Parish extended—not later than the interview of the 4th of October.

Q. What led to your transaction of taking the will from the trunk, and disposing of it, on or after the 13th of November ?

A. The idea that Mrs. Parish would obtain possession of the will as she had done before ; I do not remember that there was anything occurred immediately before that day that

- 1345 awakened this idea ; I do not remember that this proceeding of mine was instructed or suggested by any other person ; I do not remember that it was not ; I do not recollect speaking of my intention before I did it, to any one, unless I might have spoken to Mr. Griffin, which is very likely ; my memory is not very clear on the subject of my interview with Mr. Griffin, but I think I gave him a general idea of my past transactions in the affairs of Mr. Henry Parish, and that he told me I had done perfectly right so far—had acted with discretion, and it is very likely that he proposed or suggested my taking the will, and at the same
- 1346 time I think he proposed my taking an inventory of the contents of the trunk ; but I am not sure that that suggestion as to the inventory was at that time ; I did not then or at any time pay Mr. Griffin any fee, in regard to that affair ; I do not remember whether while the will remained in the Fulton Bank, any one but myself knew where it was ; I deposited in the Fulton Bank, because I knew Mr. Lane, the cashier ; neither Mr. Henry Parish, nor H. and D. Parish had any account at that bank, at that time.

Q. What was the first time after the 25th of August, that you saw Mr. Henry Parish ?

- 1347 A. I may be in error, but I think it was the 5th of January ensuing, when I think he came in the carriage to the store ; his condition in bodily health and strength, I should consider at that time to have been pretty good, much better than at my first interview ; it would be very hard for me to say how it compared with his bodily condition before his attack ; I saw no action that would give me much idea as to his bodily health and strength ; I plainly perceived that at least one-half of him was nearly or quite powerless to act.

- 1348 Q. Do you remember standing at the carriage with your hat off, and Mr. Parish making a motion for you to put it on ?

A. I do very well ; I supposed I readily understood what he meant ; he pointed at my head, which was uncovered, and I understood him to mean by that for me to put my hat on.

Q. Do you remember saying to Mr. Parish that all was going on at the office as well as when he was there, or words to that effect ?

A. I do not; at my interview of the 25th of August, I 1349 remarked to that effect to Mrs. Parish, but that is the only time I remember making that remark; I do not remember speaking to Mr. Parish as to the notes in the Phoenix and State Banks, and payments of or upon them, but have no doubt that I did; one of the Messieurs Delafield was present at the interview at the carriage; I do not recollect his being in the carriage at the time, but as it was he who requested me to go down to the carriage, I think he must have been either in the carriage or its neighborhood; I do not remember the fact of the taking away of the will being mentioned at that interview; I am very sure I did not say 1350 the will had been taken away for safe keeping; to the best of my knowledge, I did not then inform Mr. or Mrs. Parish that the will had been taken away.

Q. What were the movements of Mr. Parish that you could not understand at that interview, and which Mrs. Parish made an observation to explain, as you have stated?

A. They were the movements of the hand, as described in my direct examination; I think that was the first time I had seen him make that particular motion.

Q. When you saw Mr. Griffin that afternoon, did you state to him what had occurred at the carriage? 1351

A. I do not recollect, I suppose I did; that was the object of my going up to put the case before him, but whether I stated the past facts, or only asked as to the future, I am not positive; it was in consequence of this interview at the carriage that I went to see Mr. Griffin that day; I think it was after I saw Mr. Griffin that I saw Mr. Kernochan, and took his advice; that was not on the suggestion or advice of Mr. Griffin; I do not remember what I stated to Mr. Kernochan when I saw him; it must have been in relation to this will, and as to what he thought as to my giving it up; he advised me in general terms to do 1352 so, to give it up; I think I did not take the will from the bank on that day; I do not recollect, but I think it was on that day I made the appointment with Mr. Kernochan to go to the house; I do not know whether Mr. Kernochan first gained a knowledge that I had taken the will, during this conference, that is, I do not know from memory.

1353 Q. How near to Henry Parish did you take your seat, at the interview when you delivered the will?

A. I sat within about arm's length of him; I do not remember that I shook hands with him; I think I retained that seat and position all the while I was in the library; Mr. Parish showed he apparently missed the will, after I had delivered it, and it had been taken away from where he placed it by looking around, and, I think, by some motion of the hand, such as I have mentioned; I do not distinctly recollect this motion of the hand at that time.

Q. What were the motions or gestures of Mr. Parish
1354 which apparently signified a desire for it or for something?

A. That movement of the head as though he were looking for something, he continued that a very short time; Mrs. Parish then came forward, took the will from the mantelpiece, from where I believe she had put it, and handed it to him; the gestures then ceased; I think he then laid the will beside him on the seat.

Q. What were the motions made by Mr. Parish at this interview, indicating that he wanted some conversation with you?

A. They were those motions of the hand which he always
1355 used, or nearly always used, when in my presence, which I have before described.

Q. What did you do thereupon?

A. I do not remember that I did anything immediately, I merely saying or expressing that I could not understand what he wanted, or words to that effect; I don't remember to whom I said that.

Q. Did you ask him any questions?

A. Not immediately subsequent to these particular mo-
1356 tions towards me.

Q. What was the first thing said by you after these motions commenced, and to whom was it said?

A. To the best of my knowledge I said to Mrs. Parish or some one else present, "I cannot understand him," or words as near to these as possible.

Q. What indication that he wanted conversation with you did you perceive in these motions?

A. I don't know that I perceived by these motions that 1357
he wanted to speak with me.

Q. Did you perceive that the motions were made to
you ?

A. His attention and motions were apparently directed
towards me.

Q. Did you make no attempt to learn what he wanted,
or whether he wanted anything of you ?

A. Not until Mrs. Parish suggested that he wanted to
say something to me about my own matters as compensa-
tion for my services, or words to that effect ; I think that
was the first mention that had been made at that interview 1358
of my services or compensation.

Q. Why did you feel that was a delicate subject for you
to speak about ?

A. I did not want to thrust my own matters on a com-
pany like that.

Q. When you spoke to Mr. Parish about his wish to have
a balance against you in the books cancelled, how did you
describe the balance ? Give the form of the question if
you can.

A. In words like these : " Mr. Parish, do you wish the
balance standing against me on your books cancelled ? " I
do not think I named the amount ; I do not remember, but 1359
I have no doubt I did then know what the amount was. I
don't recollect the date of that balance ; it was of some
years standing. That balance had never, to my knowledge,
before the attack, been the subject of conversation between
me and Mr. Parish ; I do not know of my own knowledge
that he ever saw it in his life ; I don't know that I ever
communicated it to him, otherwise than by its appearing
on his books.

Q. How came you to ask this question about this bal- 1360
ance ?

A. I think it was suggested to me at that interview, or
immediately previous thereto, either by Mr. Kernochan or
by Mr. Daniel Parish. My best present impressions are,
that it was just before going up to that interview, if it was
suggested by them, or either of them. I do not know that
I have any impression on the subject, as to which of them
made the suggestion, if it was made. I made a pencil mark

1361 on the account in the books, subsequent to that interview—
but I do not remember what it was exactly, nor how soon
after the interview it was made. I have no idea at all how
soon after it was made; it was, perhaps, one or two years
afterwards—it might have been three; my impressions are
that it was not made within one year after; I have an idea
to that effect, but no memory about it.

Q. When you asked, “Mr. Parish, do you wish me to
continue to transact your business,” were you in the same
seat as before?

A. I believe I was; Mr. Kernochan was sitting on the
other side of the room, or some distance off.

Q. What was the motion in answer to that question,
1362 made with his hand, by Mr. Parish, towards Mr. Kernochan
and yourself?

A. I am not positive whether the motion was with his
hand, or his head; I think, however, the motion was with
his hand towards Mr. Kernochan, and then towards myself.

Q. Are the whole account in page 90 of Mr. Parish's
Ledger, and the pencil memoranda thereon, in your hand-
writing?

A. They are. All the writing on that page is mine.

Q. On what day was the first credit-entry on that page
made by you?

1363 A. The original entry was made in the journal on Janu-
ary 7, 1850. I have no idea exactly of the time it was
posted into the Ledger, but I think now, on looking at the
journal, that it was probably posted on the same day.

Q. How were the \$150 mentioned in that entry paid,
and was it before or after your visit to Mr. Parish's house,
on that day?

A. I do not remember in what way it was paid, whether
by check, or not; I have no doubt it was made after my
1364 return from Mr. Parish's, it being entered on the 7th. The
reason why it happened to be paid in January is, that
in the early part of January and July I was more flush
than at other seasons of the year; and the particular
reason why I paid it just then was, that I had borrowed
it on the very morning just previous to his attack, and
I did not wish it confounded with the previous loans.

(Mr. Evarts offers in evidence the account,—copy 1366 hereof being made is marked Exhibit No. 14, the red lines underneath parts thereof denoting the parts in pencil writing.)

Q. Had you any other ledger account with Mr. Parish during the period embraced in this?

A. I believe I did not.

Q. Where was your pay account for services during that period kept?

A. In the books of H. & D. Parish.

Q. What led to your observation at this interview to Mrs. Parish, "You see he can use his left hand freely?" 1365

A. I was very anxious to have that trial made, feeling at if, as she said, he was of sound mind and could use his left hand, it was strange that that will or trunk had not been called for in that way by his putting the blocks together.

Q. How did you know that it had not been called for in that way?

A. I did not.

Q. Was it as the result of your own observation that you pressed the view that he could use his left hand freely?

A. It was entirely; I had not, to my memory, heard of 1367
a proposition about block letters from any one; I do not remember that I had before I went to the house any intention of making this suggestion; I had not then heard that it had been previously made or talked of.

What day in January is it now your recollection that interview took place?

I think it was on the fifth of January; no, it was not, on the 7th of January; I was a little puzzled about 1368

How many days after this was it that the interview office took place?

It was the next day, or the day after.

Was it not as late as the tenth of January?

I do not recollect the exact day of the interview, it was the ninth or the eighth; I think it was the I recollect pretty well, it was not the tenth, I may say ten.

1469 Q. Is the book which you showed to Henry Parish at the office on that day, now here?

A. It is not; I believe it was sent up to the house with the other books.

Q. Was there a day-book of Henry Parish distinct from a journal?

A. There was, I think.

Q. Do you or do you not remember whether there was one or not?

A. To the best of my memory, there was.

Q. Who kept it, if there was one?

A. I kept it.

Q. During what period?

A. I will just state that I am not positive, the period I do not remember, and I am not positive but that these two
1370 books, the cash-book and day-book, were kept in the same book at the office.

Q. Do you now recollect whether the book you exhibited to Mr. Parish at the interview in the office in January, was or was not the journal just exhibited here?

A. My best impression is that it was not the same book; my impression is that it was the cash-book.

Q. Is that the same book you meant in using the words "day-book" in your direct examination?

A. I think it was.

Q. Where is that cash book or day book?

A. The cash book is at the office of J. R. Marshall & Co., the office occupied by Mr. Kernochan; it is in my charge, I suppose, and has been ever since the illness of Mr. Parish; it was not sent to Mr. Parish's house with the
1371 other books, because it was accidentally omitted.

Q. Who selected the books that were selected?

A. I don't know that there was any selection, only as far as his books were selected from a mass of others, perhaps one hundred.

Q. Who did that?

A. I took the books out, threw them upon the floor, ordered the office boy to tie them up, which he did, and they were subsequently delivered to a man who called for them; as far as I could know, as they were delivered in my absence; this was done at the office of J. R. Marshall & Co.,

164 Pearl street ; not a great while, I have no idea exactly 1372
as to the time, a few months ago.

Q. Did you go through with Mr. Henry Parish with the book before him, all the entries made since his attack ?

A. I do not know that I did, every entry ; Mr. Kernochan explained some of them to him.

Q. Did you intentionally omit or stop short of any of them ?

A. I did not.

Q. Was, so far as you recollect, either by you or Mr. Kernochan, the whole series gone through with ?

A. Of my own memory I do not recollect whether they were all shown or not ; I have no recollection that any entries were omitted to be shown to him.

Q. When the check for your services was spoken of, did you receive the check ? 1373

A. I did not, I never received it ; I never knew what it was for, nor the amount ; the charge of \$500 mentioned in my direct examination, was paid by my taking that amount of monies I had collected, and charging myself with it.

Q. Did you not learn from what was said about the check that it had reference to the same payment which this entry showed you had made to yourself ?

A. There was nothing said about that check at all, any farther than I have stated, and I do not know that it was for the same purpose.

Q. What was the conversation upon the matter of the 1374
will during that interview ?

A. I don't remember what it was distinctly.

Q. State it as it occurred as nearly as you can ?

A. I do not recollect one word of that conversation.

Q. Do you remember who were the speakers in that conversation ?

A. Mrs. Parish and myself—nobody else that I know of.

Q. What was the purport of that conversation before you made the remark that you had no doubt Mr. Parish was satisfied, &c. ?

A. The purport on Mrs. Parish's side was a reflection upon my having taken the will out wrongfully, or without

1375 right ; and on my side I have no doubt it was a justification of my proceedings.

Q. How happens it that of some part of this conversation you can attempt to give the exact words, and as to other parts not be able to give one word ?

A. The particular points of conversations were made minutes of by me, I think up to this interview ; that is the reason why particular points are more prominent than others in my memory, and those minutes I have referred to.

Q. Do you mean by that, that the parts of this conversation of which you attempt to give the exact words, are 1376 in your minutes, and that other parts of the conversation are not ?

A. I do not so mean, for I am not positive that I made minutes of this particular conversation, it was about up to that time I kept minutes, but whether they include this particular conversation I don't know.

Q. Was it after or before you said to Mrs. Parish at that interview, " if he should ever come to his mind," &c., that you had received Mr. Parish's hand, and he had bowed his head in answer, or after your question, " Mr. Parish, are 1377 you not perfectly satisfied with what I have done ?"

A. I think that after I said, " if he should ever come to his mind," &c., I then turned to him and said, " Mr. Parish, are you not perfectly satisfied, &c. ?" and that he then put out his hand and I took hold of it, and he bowed his head.

Q. Did you ask this question of Mr. Parish, and receive this response, before or after the angry retort of Mrs. Parish ?

A. I think it was after.

1378 Q. Did you ask this question and receive this response before or after Mr. Parish turned towards her with the gesture and action which you have mentioned in your direct examination ?

A. I think it was after.

Q. Was it before or after Mrs. Parish said, " Well, if he speaks to me that way, I must answer him."

A. It was after Mrs. Parish made that remark, I think.

Q. After you had asked this question and received this response, what further occurred at the interview ?

A. I do not now remember that anything else occurred. 1379

Q. Do you remember that that was the conclusion of the interview?

A. I do not remember.

Q. Do you remember whether upon Mr. Parish's pointing to wards the carriage they left, or whether anything occurred afterwards?

A. I think that these occurrences which I have just been examined about occurred after his pointing to the carriage.

Q. Were you ever at Mr. Parish's house subsequent to the delivery of this will?

A. I was; I think soon after, and only once; that was a day or two after; when I took the balance sheet, I went in, or I think I went in.

Q. Were your services in Mr. Parish's affairs after July, 1380 1850, less than they had been between that time and his attack?

A. I think they were less.

Q. Did you ever have any interview with Mr. or Mrs. Parish subsequent to this one in the office, excepting at the carriage, when stopping at the office?

A. Never, except once in the carriage in front of the Messrs. Delafield's office; they were in the carriage, and I was at the door.

Q. At any of these interviews did you enter the carriage?

A. No sir.

Q. How long did any one of these interviews last?

A. I was never present at the carriage when the interview lasted over from five to ten minutes, to the best of my recollection.

Q. Subsequent to yourself and Mrs. Parish parting at this interview in the store, was your intercourse put upon any other footing than that in which that interview left it?

A. I do not now remember that it was, if I understand the question properly.

Q. Subsequent to the retirement of the Messrs. Parish from business in 1838, and prior to Henry Parish's going to Europe, did the firm of H. & D. Parish enter into any new commercial operations?

A. With the exception of one or two—one small cotton

1382 operation, I don't recollect that they did, and a few operations in the way of buying notes.

Q. What was the whole extent of the cotton operations in which Mr. Daniel Parish was engaged during Mr. Henry Parish's absence in Europe?

A. That I never knew.

Q. What is the largest extent you do know of?

A. I have no idea of any extent, except as regards one of the operations which was \$300,000 and upwards; I think for joint account of H. & D. Parish; when I speak of one operation I mean of one account; there were accounts 1, 2 and 3.

Q. Which account was this?

1383 A. I think it was under head of account No. 3, which footed up about \$325,000, I think; this enumeration 1, 2 and 3, was in the order in which they occurred as to time; 2 and 3 may have been divided in consequence of some part of the cotton having been shipped, or something like that; I think 2 and 3 would be considered as substantially the same operation, but they were under different accounts; they were in extent about \$400,000 or \$500,000 together, I suppose; they were all three for joint account; the extent of No. 1 was \$5,000 or \$6,000; that is the transaction referred to by me a short time since; it was in 1841; all the rest after that, and which occurred after Henry Parish went to Europe, on joint account, amounted to over \$400,000, I think; in my examination by Judge Edmonds, I think, I 1384 had reference to accounts Nos. 2 and 3; these joint operations were not entirely closed before Mr. Henry Parish retired; I do not remember in what respect they remained unclosed.

Q. When was the adjustment of the loss on the joint operations, by which the whole loss was carried to the account of Daniel Parish, made?

A. The whole loss was never carried to the account of Daniel Parish, that I know.

Q. What part of it was borne by Henry Parish?

A. The whole balance of the account was charged to Henry Parish.

Q. When was the adjustment, by which the whole loss was carried to the account of Henry Parish, made?

A. It was in 1844 or 1845, I think.

1385

Q. Had you at the time any knowledge of the cotton operations of Daniel Parish on his own individual account, during the absence of his brother Henry?

A. I knew very little about it, until demands were made for money to forward to Europe, to hold his cotton over for an advance in price; the bills which were drawn against the cotton having matured, and large checks being drawn to protect that cotton from what appeared to be a certain loss, if sold at that time.

Q. Do you know at what time the fire which destroyed some buildings on the New Orleans property, took place?

A. I do not recollect the time.

Q. Do you know what amount was collected for insurance upon that loss?

A. I think it was \$12,000, received by Henry Parish; I don't recollect when it was received; it was two or three years ago.

Q. Look at this paper and say if, at the time you first discovered the will of Henry Parish, in his trunk, or between that time and the attack, you observed a package, of which that was the envelope, in that trunk?

A. I do not remember of ever seeing it, although I probably have seen it.

Q. Have you any recollection whether such package was sealed or unsealed at the time you have been asked about?

1387

A. I do not remember whether it was sealed or unsealed, or whether I ever saw it; the endorsement on the envelope is in the handwriting of Mr. Henry Parish, except the writing across the end. (The paper is marked No. 15.)

Q. Look at the paper now handed to you by me, and say whose signature it bears at the foot?

A. The signature is in the handwriting of Mr. Daniel Parish, the body of it in my writing.

Q. Is that the application for certain stocks of Daniel Parish's, to which you referred in your direct examination?

A. It is not the application to which I referred.

Q. Was it an application in reference to the same bonds?

A. A part of it refers to the same bonds; the fifteen

1888 Tennessee and seven Alabama bonds (Paper is marked "No. 16"); my evidence, I think, says, 16 Tennessee bonds and that, I think, is the true number; my application dated 29 April, 1850.

Q. How many letters or notes did you address to Henry Parish between the time of his attack and the time of death?

A. I don't know; I can give you no nearer idea than from 20 to 100.

Q. Is the paper now shown you in your handwriting?

A. It is.

Q. Can you state to what it refers?

A. I can not. (Marked No. 17.)

Q. Are the letters and papers now shown you in your handwriting?

A. They are. (They are marked from No. 18 to No. 42 inclusive.)

Q. Are the papers and letters now shown you in your handwriting?

A. They are, except No. 43, which is in Mr. Kernoch's handwriting. (The others are marked from Nos. 39 to 42 inclusive.)

Q. Is Exhibit No. 42 the application for bonds which was referred to in your direct examination?

A. It is, to the best of my knowledge.

Q. Were you aware at the time, of the transaction of conveyance of southern lands, about the fall of the year 1850?

A. I did know, I think, something about it, but I have really forgotten the transaction, the particulars.

1390 Q. Look at that memorandum of yours, and see if it calls the transaction.

A. I don't recollect the particulars.

Q. Do you recollect how many deeds were executed by Mr. Henry Parish?

A. I do not recollect.

Q. Is that your memorandum?

A. It was written by me.

Q. What was the transaction, so far as you do remember?

A. I do not remember at all.

Q. Do you know that it related to lands in which firms, or some of them, were interested as owners?

A. I think it did, and I was merely the medium to get the

Bissell to do something in relation to it; I think that bills 1391 were sent in from different parties, and this is one I sent to him.

Q. The inventory you took of the contents of the trunk at the Phoenix Bank, do you remember whether the suggestion of it came from the Bank or from yourself?

A. My present impression is that it was suggested by Mr. Griffin to me; it was suggested by me to the Bank, to the best of my recollection.

Q. Can you now state whether it was not a precaution on the part of the Bank, and that you were sent for by the Bank to be present at it?

A. I am very positive that I was not sent for, and that it was not a precaution of the bank, and in connection with this I wish to state, that not long before this inventory was taken, 1392 Mr. Ogden informed me that he had been enjoined from giving up the trunk to me or any body else, or words to that effect; I said in reply, I care nothing about that, but I must have access to its contents or words of a similar import.

Q. What was done with that inventory, after it was made?

A. I had it in my possession, and retained it up till very recently, and I rather think it must be in the possession of Mr. O'Connor or Mr. Dillon.

Q. In your answer at fol. 1202, do you mean to be understood that the excitement you there refer to, arose at Mrs. Parish's failure to interpret his wishes, or at her persistence beyond his inclination?

1393

A. At her persisting.

Q. From what did you notice, it was from his persistence rather than his failure?

A. Because during these constant efforts to explain what he wished, he would keep up his motions and turn round to her with this excitement, almost constantly as she talked or spoke, as though he were annoyed or interrupted.

Q. In asking at the interview at which the will was given up, "Mr. Parish, do you wish to pay me for my services," what particular services had you reference to?

A. The services which I was then rendering him, and those which I might continue to render him.

1394 Q. Did you describe the services to which you referred any otherwise than as you have stated ;

A. I don't think I did.

Q. Did you anyways express yourself whether it was in regard to your past services ?

A. I did not to the best of my knowledge.

Q. When you asked him about cancelling the balance did you say anything about his so cancelling it for service you had rendered ?

A. I don't think I did.

Q. How was the rate of \$1000 for your services, during the year from July, 1849, to July, 1850, arrived at, and with whom, and when ?

A. It was arrived at by myself, unless I should consider

1395 Mr. Parish as of sound mind and take his first assent or nod to that sum, as the price he wished to pay, but he made a similar nod at \$1,500, and did not shake his head at the proposition of \$2,000, and having no clue to go by, no one to make a contract with, I charged it as a bill at \$500 ; if I had been on the side which claimed Mr. Parish as being sound of mind, I should have charged at \$2000 ; I mean by saying on the side, that is, if I believed he was sound in mind.

Q. Do you mean that you would have charged \$2000 on the answer he made to your question naming that amount, if you had thought him sound in mind ?

A. I should if I had thought him sound in mind.

1396 Q. In naming the amounts at that interview, did you accompany the amounts with any additional expression ?

A. I do not remember whether I put the per annum or year at the end of it, or any expression.

Q. Did you speak of the cancelling of the balance, before or after you spoke of the compensation ?

A. I think after.

Q. Was anything said at that conversation about its being cancelled by services ?

A. Not a word, to my knowledge ; at least I do not remember.

Q. What was the meaning of that entry in the ledger, in pencil, " to be cancelled by services ?"

A. It was merely to explain to others after I was gone

~~that that was my idea ; and it was not from anything Mr. 1397~~
 Parish had said at that interview.

Q. From what did you get that idea ?

A. It had been standing on the books four years, and my services had been running during that time without compensation I believe, and Mr. Parish had never asked me for it, and my idea was that he intended this loan to be a cancelment of my services ; I can't explain it farther as you do not understand the peculiar relations which existed between Mr. Henry Parish and myself.

Q. Were the services which you referred to at the entry, past or future services ?

A. Past.

Q. Was your question to Mr. Parish, at the interview 1398 when the will was given up, about this wishing you to continue to transact his business, before or after you spoke about cancelling the balance ?

A. I think it was before.

Q. Was it before or after you had asked him about the amounts for your services ?

A. I think it was before ; I am not positive.

Being examined by Judge Edmonds the witness says :

Q. In your letter to Mr. Parish of 18th March, 1853, Ex. 39, you ask him "to sign those enclosed satisfaction pieces before a Commissioner" ; do you remember the incident there referred to ?

A. This letter recalls to me the fact ; I have no other 1399 recollection.

Q. Do you remember any instance in which after his attack of illness you received and used any such satisfaction piece ?

A. I don't know what you mean by such satisfaction piece ; when you say such satisfaction piece I don't know whether you have reference to the particular one described in this letter, or a different satisfaction piece.

Q. I now put the same question to you in reference to any satisfaction piece.

A. I think I have received one ; I am not positive about it.

Q. Did you use it ?

A. I do not remember.

1400 Q. In your letter to Mr. Parish of April 3, 1851, Ex. No. 48, you use this language: "if you will stop here to-morrow I will witness the signature to the satisfaction piece and thereby relieve you from the trouble of going before a Commissioner to have it acknowledged, as I can do this myself by swearing to the signature"; was that done as you suggested in that letter?

A. I do not recollect.

Q. Look at the paper now shown you and say in whose handwriting it is?

A. It is in mine.

Q. Made out for whom?

A. For Mr. Henry Parish.

Q. Is there any of his handwriting on that paper?

1401 A. There is; the pencil marks throughout, I believe, are in his handwriting.

(The paper is marked No. 49; it was called for by Judge Edmonds, and handed to him by the counsel for the proponents, and is offered in evidence by Judge Edmonds. The pencil marks are in italics.)

Direct examination resumed by Mr. O'Connor:

Q. Look at the day book of H. & D. Parish, under date February 27, 1845, p. 344, and say in whose handwriting is that entry?

A. It is in mine.

(A copy of this entry is produced, marked No. 50.)

Q. To what does the first entry of \$22,311 14 refer?

1402 A. It refers to cotton speculation No. 3, the balance of which, being loss, is charged to H. Parish.

Q. What does the 2d item refer to?

A. It refers to a charge against Henry Parish for gain on sundry stocks bought as an investment by Daniel Parish; the amount is \$45,498 49.

Q. In whose name and on whose account were these purchases of stock made?

A. In the name of H. & D. Parish, and for their account; the amount, \$45,498 49, is profit.

Q. By whose direction did you make these entries?

A. By the direction of Mr. Henry Parish.

Q. The profit on those stocks was carried to whose debit?

A. The debit of Mr. Henry Parish.

1403

Q. Do you know why those losses and those profits were added together, and thus debited to Henry Parish?

A. I do know, believe I know; they were in consideration of the very heavy losses which Mr. Daniel Parish had lost in the speculations in cotton during Henry Parish's absence, and perhaps partly on account of what I had told him in regard to a fact which I knew, and he did not, that was, that Mr. Daniel Parish, in speculating for H. & D. Parish, had made a small loss for the firm of about \$22,000, had gone into the speculation in his own name, had said to me that if he made profits he intended to place them on the books of H. & D. Parish, as for the firm; if he made losses he would stand them himself, or words to that effect.

Q. When Mr. Henry Parish was leaving town on occasions of temporary absence, what particular measure, if any, did he use to enable you to obtain funds, if needed for his business during his absence? 1404

A. If you mean, to obtain the funds from the bank, then he left me blank checks, with his name at the bottom, and to my order.

Q. Was this an ordinary practice with him?

A. It was only at such times as he thought there were demands of perhaps large amounts, or moderate amounts.

Q. Sundry letters addressed by you to Henry Parish, have been produced to-day, and identified by you, did you intend or suppose that Henry Parish would read these letters, or any of them, at the time you wrote them, 1405 or any of them?

(Mr. Cutting objects to the question as leading, and also as incompetent. Question allowed.)

A. I did not.

Q. For whom in fact were those letters and each of them intended by you?

(Objected to by Mr. Cutting as incompetent. Allowed.)

A. They were intended for Mrs. Parish's perusal.

Q. When checks were sent up to the house, to whose order were they made payable?

A. Those that Mr. Kernochan sent up—his own checks

1406—I think were made payable to S. M. Parish. I think almost all cases of my sending up checks, they were payable to the order of H. Parish; I think not always so.

Q. Why were those checks made payable to his order? (Mr. Cutting objects to the question as incompetent. Allowed.)

A. Because I thought he was the proper person to make the order to.

Q. Did you suppose or expect that he would endorse such checks?

(Mr. Evarts objects to the question as incompetent.)

A. I did not.

Q. When these calls were made at the store in a carriage by Mr. and Mrs. Parish, did the messenger ever come for or call for Daniel Parish?

A. Never to my knowledge.

Q. Was he or not frequently at the store on the occasion of such calls?

A. I think he was.

Q. Were you ever at the house of Mr. Henry Parish with Mr. Daniel Parish, except on the one occasion which you have mentioned.

A. No; I think not.

Q. On the occasion when you were there with Daniel Parish, did you witness or hear any dispute, difference, or words between him and Mrs. Henry Parish?

A. I do not remember that I did; he was up stairs and I down stairs.

Q. Did Mr. Daniel Parish ever at any time or in any way give you any direction or advice, or consult with you about any of your transactions with the will of Henry Parish?

A. To the best of my memory he never did.

Q. On this day when Mr. Parish pointed at your head what sort of weather was it?

A. It was very cold and rainy.

Q. Were you ever at the carriage on other occasions under like circumstances?

A. I have frequently been at the carriage in cold weather, and I think sometimes in rainy weather, but never with my hat off to my knowledge; I do not remember being so.

Q. In the balance sheet made up by you in January, 1409 1850, was the balance of your account entered?

A. I should think it very strange if it was not; it is entered.

Q. How long did you remain on the first floor of the Pearl street store after Mr. Parish's attack?

A. I do not recollect, but I think we moved up stairs in May, 1850.

Q. How often do you remember Mr. Parish to have been in the store below stairs after the attack?

A. I have a recollection of two instances of his being in the store, I think, and no more.

Q. Was he ever in the office up stairs?

A. Never.

Q. Did Henry Parish during his absence in Europe make any purchase of cotton on joint account? 1410

A. I believe he did.

Q. Was that speculation a profitable or an unprofitable one?

A. An unprofitable one, I believe.

Q. Do the results of that purchase enter into that account No. 3?

A. They do.

Q. At about what date, as near as you can now remember, was your salary with John R. Marshall & Co. placed upon its present footing?

A. Early in July, 1853, commencing from the 1st of that month.

Q. How did it happen to be fixed at that rate?

A. The business in New Orleans was suddenly terminated, the two principal partners separating; both partners arrived here early in July, and both made propositions for my services as a partner, or agent, or clerk; they both made offers of an interest in the profits of the concern; Mr. Marshall spoke of the fact of the concern being already made up, but if I wished my name in the firm it should so be done; he offered to give me a certain per centage, which I did not agree to; he then asked me what I would continue the services for, as heretofore—the same way; I told him for \$6000, to be drawn by me monthly, as I wanted it, and he consented to give \$5500, which was accepted; my 1411

412 general duties were to buy goods, keep the books, and attend to all money matters in New York.

Q. Has Mr. Daniel Parish now, or has he had at any time since his brother's attack any interest in, or connection with that firm of Marshall & Co., or the preceding firm of Marshall & James?

A. Not any business-interest or money-interest in any shape, that I know of.

Cross-examination by Mr. Evarts:

413 Q. Please state what the result of this transaction at page 344 of the ledger, as gift from Henry Parish to Daniel Parish, is?

A. It is a gift of the whole of the \$22,311 14, and half of \$45,498 49; the entry is posted into the ledger as noted on the day-book.

GEO. W. FOLSOM.

Subscribed and sworn before }
me, June 10th, 1856, }

A. W. BRADFORD,

Surrogate.

June 23d, 1856. 2033

rties present.

Mr. Cutting calls—

Edward Delafield, who being sworn, says: I reside No. 2 East Seventeenth street, New York; am a physician, and have been in practice in this city nearly forty years; I am the brother of Mrs. Susan M. Parish; I am 2 years of age; I was formerly Professor of Midwifery in the College of Physicians and Surgeons; ~~and~~ also one of the Physicians of the New York Hospital, and one of the surgeons of the New York Eye Infirmary; I am now Vice-President of the College of Physicians and Surgeons; 2034 I am still engaged in the active practice of my profession in this city; Dr. Thomas M. Markoe has been my associate and partner for the last eight years; I first became acquainted with Mr. Henry Parish a year or two before his marriage to Mrs. Parish; that marriage took place in 1828, I believe; my sister was residing with my mother before and at the time and after her marriage; my mother's residence was then in Park Place, and in summer at Hellgate; Mr. and Mrs. Parish continued to reside with my mother for a year or two at her house; Mr. Parish built the house in Barclay street, and they there went to housekeeping; after their marriage they still had their summer residence with my mother, until her death, at the country residence of my brother Henry at Hellgate; my mother died about 17 years ago, as near as I can recollect; subsequent to her death Mr. and Mrs. Parish still continued to have their summer residence at the same place, which was owned by my brother Henry; my acquaintance and intercourse with Mr. Parish were of the most intimate kind, I being constantly at his house; this extended over the time subsequent to his marriage and prior to his attack; there was no interruption of our intimacy or friendly relations in the slightest degree, at any time. 2035

Q. What were the relations of intimacy, and what the conduct of Mr. Parish towards your mother, from the period of the marriage, to her death?

2036 A. His conduct was as if he had been her own son ; the relations between them were of the closest and most intimate kind ; there was no interruption of these relations that I ever heard ; Mr. Parish's relations towards my brothers were always of a kindly description, and I remember no interruption of them at any time ; previous to his attack probably no week elapsed without my being at Mr. Parish's house ; from the time of his marriage I became the medical attendant of Mr. Parish ; for the greater part of the time previous to his attack the general condition of his health was good ; during the latter years preceding his
 2037 attack he had several slight seizures threatening apoplexy ; he was also previous to his attack affected with cataract, through which he eventually entirely lost his sight ; he subsequently recovered his sight, I having performed an operation for cataract, about two years before the attack, I think, but I cannot be precise ; one eye was originally blind with cataract—the other became so during the period indicated ; it was hereditary in his family ; I operated on his father previously ; my operation was performed on both eyes of Mr. Henry Parish ; I attended him in reference to his eyes for at least a year before he became blind, so as
 2038 to require the operation ; after he completely recovered from the operation his sight was very good—that is sufficiently to enable him to read with proper glasses ; his sight was sufficiently good for all ordinary purposes, but not perfect ; I ought to say one eye was blind, that is the eye originally blind remained so ; that was the left eye ; he must have been living in Barclay street, at the time I was attending him for this malady of his eyes ; I have no recollection whilst so attending him of meeting Mr. Daniel Parish or any of his family at the house ; at Union Square,
 2039 and prior to Mr. Henry Parish's attack, I met Mr. Daniel Parish there very little, if at all ; I attended Mr. Daniel Parish himself at one period, and our intercourse was always friendly with the entire family ; I may have attended others of the family incidentally, but I was not the family physician ; I have attended Mrs. Dillon, one of Mr. Daniel Parish's daughters, for several years, from shortly after her marriage up to the present time ; I was

in the habit of conversing with Mr. Parish, prior to his 2040
attack, on general subjects.

Q. What were the traits or characteristics of his mind
as impressed upon you during your intercourse with him,
prior to his attack?

A. His mind was good, not quick in perception, not
quick in action, in resolve that is.

Q. What was the characteristic of Mr. Parish as im-
pressed upon you during the same acquaintance as to his
temper in respect to firmness or decision, or the contrary?

A. Very decided in his determinations after they were
once made. 2041

Q. Where were you at the time of Mr. Parish's attack,
and how did you first receive notice of it, and what in con-
sequence did you do?

A. I was in the city when I received notice and I drove
immediately to Wall street where he was attacked—in Mr.
Prime's office in Wall street—I found my brothers Henry
or William and I believe one of the others with him; Dr.
Van Rensselaer was there, Mr. Edward Prime and Mr.
Robert Ray; I remember particularly Brown, the Sexton
of Grace Church, was there, because he aided me; I found 2042
that Mr. Parish had been attacked with a fit of apoplexy
and he was beginning to recover from the first shock; my
first object was to get him home; he was placed in my
own carriage, which was a coach, and driven home; this
was done mainly with the assistance of Brown, the sexton,
who accompanied me to Union Square; he went upon the
box; when we arrived at the house he was carried to his
bed-room on the third floor; he soon began to exhibit con-
fused consciousness and we shortly discovered that his right
side was paralysed; he recovered somewhat rapidly from 2043
his condition, so that about on the first of August I con-
sidered him out of immediate danger; I then was out of
town for about a fortnight at my country place on Long
Island, leaving him in charge of Dr. Francis, U. Johnston,
whom I had called in consultation immediately after the
attack, and of my partner Dr. Markoe, who had also attend-
ed him from the beginning a good deal more than myself;
we were one or the other of us constantly with him a great
part of the time till I left town; I may say by night as

2044 well as by day, one of us sleeping at the house a good deal; on my return about the middle of August I found Mr. Parish much improved, and he continued to improve irregularly up to about the first of October.

Q. During this period, terminating about the first of October, did Mr. Parish have any recurrence or threat of recurrence of apoplectic seizures?

A. None that I can remember.

Q. Prior to your leaving town about the 1st of August, what was the condition of the patient as regarded the admission of persons within the sick room?

A. He was necessarily kept exceedingly quiet, and no visitors allowed.

Q. What orders or directions, if any in that regard, were given by yourself, or to your knowledge by the other physicians?

A. I cannot state from recollection the precise orders; there are matters of detail which are matters of course in such cases, and from my recollection of the case my impression is exceedingly strong that such orders were given; 2046 that he should be kept perfectly quiet, and no visitors allowed.

Q. Up to this first of August, what persons to your knowledge were admitted into the sick room?

A. I can remember none but his wife and the necessary attendants, the nurse; I think we had at that time, or within a few days, a man to take care of him; and the family servants.

Q. From the time of your return to the city, until about the first of October, what was the condition of the patient as regarded the admission of visitors in his room?

2047 A. The necessity for strict seclusion was not so great, but still no material entrance of persons in his room was allowed.

Q. What persons within the last period, within your knowledge, were admitted into his room besides the necessary attendants?

A. It was within that period that business was transacted which required the introduction of persons who were necessary to transact that business; Mr. Lord, for instance, and the witnesses to the instrument, which was then executed.

Q. Besides the persons indicated in your last answer, did you see any other persons in his room during that period?

A. I have no recollection of seeing any other persons; by describing the arrangements of the house, I can tell you how that was; there was a room adjoining his bedroom in which Mrs. Parish was in the habit of seeing persons who called to inquire, or in any way wished to see her; in this room my brothers Henry and William, who resided in the house, would frequently be; but as far as I remember, no other persons than those I have mentioned went beyond that room; the access to Mr. Parish's bedroom was through this room adjoining; I am only speaking of the time I was there. 2048

Q. When did Mr. Parish first begin to sit up?

A. I cannot fix that as to when he began, but at all events he had begun to sit up about the middle of August, probably earlier.

Q. By the middle of August, and from that time to the end of August, what measure of bodily strength had Mr. Parish gained?

A. I find it difficult to remember as to dates and the amount of recovery; I cannot say anything further in response to this question than that he sat up; whether he walked or not I do not remember. 2049

Q. What parts of his body were implicated in the paralysis, as it first disclosed itself?

A. The right arm and the right leg, and also the organs of speech.

Q. What degree of command over, or vigor in the unparalysed parts, had Mr. Parish gained by the middle of August, and so on, to the close of that month?

A. Not great; but by the fact that he sat up, he must have been able probably to stand with assistance; and he used the left hand somewhat; I can't be any more accurate than that. 2050

Q. How as to movement of the head?

A. There was no difficulty there.

Q. Up to the first of October, what measure of bodily convalescence had Mr. Parish gained?

A. I think he must have begun to walk within that time with aid, and I think also he had been brought down stairs

2051 within that period; I don't dare to be positive on these points; that is my impression.

Q. What was his general bodily strength?

A. It was all the time improving; and from the fact I stated that he had begun to walk, the improvement must have been material; I perhaps had better say that I now remember that the paralysed leg improved somewhat rapidly within this time, gained considerable power; the paralysed arm very little.

Q. How during the period from the middle of August to the 1st of October was his condition as regarded danger to his life?

2052 A. I had ceased to entertain much apprehension on that subject.

Q. Has this paralysis with which Mr. Parish was affected any medical name or description, and if so what is it?

A. It is called hemiplegia.

Q. How far in this case up to the first of October were the paralysed parts affected by the disease in respect of sensation or motion?

2053 A. They were affected by defect of motion, not of sensation.

Q. How was the health of the paralysed parts in respect of circulation or otherwise than in regard to motion?

A. There was no improvement except that of motion.

Q. Up to this time, the 1st of October, how much in regard to flesh or weight had he been affected by his disease?

A. He necessarily lost flesh a good deal.

Q. What surgical or external remedy, if any, was applied on the first seizure?

2054 A. Blood was taken from his temples by cupping and sharp counter irritants applied to the skin of the head, and in its neighborhood.

Q. What remedies, general or local, were used from the period of his attack up to the first of October?

A. Most of the remedies I can answer what I should have done, but to remember them in detail is out of the question.

Q. What was the course of treatment?

A. That must be guarded by what I have already stated

that I can only answer how I should treat such a case, and 2055
not what I did; as part of my answer to this question I
would state that I probably used I should say an active
purgative like croton oil; but afterwards depended mainly
upon strict diet and absolute quiet.

Q. Up to this first of October, what were the indications
of the case in regard to recovery, and to what extent of
recovery?

A. He had improved to a great extent, and I then enter-
tained hopes of a recovery of speech and a recovery of the
use of his right arm, to a much greater degree than were 2056
ever realized.

Q. Did anything occur in respect to his health at or about
the first of October, and if so, describe what it was, and the
course of that matter.

A. Shortly after the first of October, he was attacked
with new and very alarming symptoms; severe pain in
the bowels, frequent and unavailing attempts at evacuating
the bowels, and retention of urine took place; he continued
suffering severely at intervals until after some days a dis-
charge of exceedingly offensive matter took place from the
bowels; this was repeated from time to time until about 2057
the middle of October, he in the meantime having become
exceedingly exhausted with the severe attack; a large
slough was suddenly discharged from the bowels, but re-
mained attached within, so that it could not come away
for several days longer; it was eventually, entirely thrown
off with discharges of matter of the same offensive char-
acter from time to time, until about the end of the month,
as near as I can remember; this slough on examination
proved to be a portion of the lower bowel itself, which had 2058
become gangrenous, or mortified, and was then thrown off
from the body; he continued suffering severely at night,
but exceedingly comfortable by day, until the end of the
month, by which time most of the symptoms of his attack
had disappeared; a small slough was thrown off at some
later period, within a week or two after the end of the
month, and small quantities of matter were still discharged
from time to time.

Q. Please indicate the character of this "matter" and
"offensive matter," which you have named as discharged
from the bowels.

2059 A. It was such as is ordinarily discharged from gangrenous parts—partly what we denominate healthy pus, mixed with foul dark materials.

Q. How was the patient during the period of this mentioned disease in respect of natural or fæcal charges?

A. During part of the time they were entirely suspended by necessity; in the earlier stages of the attack, succeeded in obtaining evacuations by enemata; at somewhat later period, the evacuations were entirely suspended.

2060 Q. What was, so far as it disclosed itself, this disease the bowels in its nature and name?

A. It was a rare and extraordinary case, and the mode of explaining it was by supposing the condition the bowel termed intus-susceptio had occurred; by which I mean the falling of an upper part of the bowel down in the calibre of a lower part.

Q. From the symptoms, how was that condition of the bowels relieved or cured?

2061 A. By the simple efforts of nature separating, by the progress of gangrene, the part which had fallen down, annulling at the same time the edge of the upper part of the fallen bowel with the part which received it.

Q. What medical methods, or surgical, are there, of relieving or curing this disease?

A. There are none of any avail—it is always a supposable condition; you find after death what it is; if the patient gets well, we don't know that it ever existed.

Q. What is the gravity of this disease of the bowel which you have named intus-susceptio, in respect of danger to the patient?

A. The danger is exceedingly great, and in such a case as the one in question, Mr. Parish's, the recovery was not to be expected.

Q. What treatment was required and what was applied to Mr. Parish during this access of disease?

A. They were such as to alleviate the symptoms as they occurred; to aid discharges of the bowels; to relieve the bladder by the use of the appropriate instrument; to allay the severe pain of the patient by opiates, and support his

strength by food and stimulants during the dangerous 2033
period.

Q. What was his treatment in respect to posture of the
body and quiet?

A. Such as to secure absolute rest.

Q. During the dangerous period of this disease, were
any instructions given in respect to quiet?

A. They must necessarily have been given.

(Mr. O'Connor objects to this answer as opinion merely,
and not fact. Answer allowed to stand.)

Q. Why do you say that such orders must necessarily
have been given?

(Mr. O'Connor objects to the question as leading and as
based upon the previous objectionable answer given. Ques- 2064
tion allowed.)

A. When the slough was discharged and before it came
away, we were first informed of the true nature of the
disease by absolute proof, and during the remaining part of
the process by which it was to be thrown off, any agitation,
whether mentally or bodily, must necessarily be exceed-
ingly dangerous; the grounds of alarm were the possibility
of hemorrhage from the separating parts, or the falling
down of additional parts of the bowel, and generally the
condition of the constitution, when the sloughing process is
going on. 2065

Q. What would have been the consequence of a failure
of union between the parts of the bowels, which you have
spoken of as having been united?

(Mr. O'Connor objects to the question as leading; ques-
tion allowed.)

A. A discharge of the contents of the bowels into the
general cavity of the abdomen, and consequently general
peritoneal inflammation and death.

Q. How did the question of quiet or disturbance mental

2066 or bodily, relate to this point of a union of the parts of the bowels?

(Mr. O'Connor objects to the question as leading, in connection with the last question.)

A. Yes—any disturbance of that description might interfere with the uniting process, and thus add to the patient's danger.

Q. Who were the medical attendants of Mr. Parish, during his disease, in October?

A. Dr. Markoe and myself.

2067 Q. How constant attendance was afforded?

A. During a large portion of the time, it was almost incessant, and a number of the nights, one of us stayed in the house.

Q. During your attendance for this disease, were any opinions expressed by you to Mrs. Parish, or any of the family, in respect of the condition of Mr. Parish?

A. I have no recollection on that subject; my mind was too deeply engaged in the case to have such things remain; it is impossible that it could have been otherwise, than that I must have explained to my sister the danger of the case.

2068 (Mr. O'Connor objects in time to the last clause of the answer beginning with the words "it is impossible.")

Q. Was this disease of the bowels connected with the paralysis of Mr. Parish?

A. Probably in some way dependent upon the condition of paralysis, but the point is a difficult one to determine; the case is too rare; to answer the question properly, would require more thought than I could give to it in this mode.

Q. After the crisis of this disease was passed, to what measure and with what rapidity did Mr. Parish regain health?

A. He regained health in most respects rapidly, but continued to suffer very much at night especially, so as to require the frequent use of anodynes to allay pain.

Q. Do you know how soon after this illness Mr. Parish 2069 went from his sick-room ?

A. I can't answer distinctly ; the recovery was rapid however ; I can't remember.

Q. By what time within your own knowledge was he downstairs, and by what time did he ride out ?

A. In the course of the month of November, is as near as I can say.

Q. From this time of recovery until the time of his death, had Mr. Parish any illnesses distinct from his general disease ?

A. A number of attacks distinct from his general disease, 2070 but the most frequent, dependant upon its cause—or in other words dependent upon the condition of the brain which led to the disease.

Q. Did you ever see Mr. Parish in a spasm or convulsion ?

A. I don't remember ever seeing him at the commencement of one ; in some of them, the symptoms, in a mitigated form, continued for some hours and then I would see him ; for the most part they went over in a few minutes.

Q. What were the distinct illnesses referred to in your 2071 last answer but one ?

A. He had one or more severe attacks of cholera morbus ; he had more than one, I think, severe attacks of inflammation of the lungs ; at one time an abscess formed under the angle of the jaw, which became so large as to threaten suffocation, and there were various minor attacks from time to time.

Q. What largest measure of bodily health and strength did Mr. Parish attain at any time after his first attack, and by what time had he reached that point of bodily health and strength ?

A. His general health at one time became perfectly good 2062 to such a degree that no person would have suspected from looking at him that he was not perfectly well ; this condition he must have arrived at, well, certainly not later than the first of January, 1853, probably earlier ; I believe I may say that he continued to improve till the end even of 1854, and perhaps for six months after that till the middle of 1855 ; at all events till January, 1855, and a few months

2073 later ; that is, he continued to improve in all general respects ; the power of using the paralysed leg improved, I may say the whole time, but the arm which gained somewhat during the first six months afterwards entirely lost its power.

Q. After the period you have named as the term of his improving health and until his death, what was the course of his bodily health and strength ?

A. He became more heavy—less inclined to move—more incline d to sleep, but still a fair, good, general health.

Q. What was the manner and period of his final illness
2074 and of his death ?

A. For about seven weeks before his death he began to fail in health and strength, without any very definite symptoms, but during the latter part of the time the lungs became the seat of distress, and difficulty of breathing was a prominent symptom. This difficulty increased to within a few hours of his death, and he then quietly sank away and died without any special suffering.

Q. What was the condition of his sense of sight from the period of his attack until his death, as compared with its
2075 condition before his attack ?

A. After the recovery from the immediate attack, he seemed to see as well as at any time after the operation on his eyes ; this continued for about 18 months or two years ; I can't fix the time ; and he then began to complain of his eyes so as to induce me to make trials from time to time whether it was necessary to change his spectacles ; he saw well enough during the best of this period to read with some ease, and in making these trials I did it by ascertaining whether or not he could read print of a certain size ; I discovered, however, that apparently the difficulty was not
2076 so much injury to the sight of which he complained as the floating of motes before his eyes ; this symptom, however, disturbed him so much as evidently to excite great alarm in his mind lest he should become blind ; and during this period he never saw me without complaining of his eyes, so much so that I proposed to him to call other medical gentlemen to see him on that subject with me, to which he eagerly assented, showed the greatest satisfaction when I proposed it ; this difficulty, however, of which he com-

plained seemed gradually to subside, and I presume the sight must eventually have become somewhat diminished, from the fact that he laid aside the habit he was previously in of looking over the newspapers and papers generally which I would occasionally see him examining. 2077

Q. Who were the other medical gentlemen who were called in, in reference to the condition or treatment of his eyes?

A. At first Dr. George Wilkes, who is familiar with the subject, and afterwards, when he went to Europe, Dr. Abraham Dubois, who is now one of the best ophthalmic surgeons in the country. 2078

Q. How was Mr. Parish's sense of hearing from the time of his attack down to his death?

A. It was always good, so much so that persons taking for granted sometimes that he was deaf and screaming to him, worried him very much, disturbed him.

Q. From after his attack were the other senses, taste, touch and smell affected in any way, and how?

A. No, they were all right.

Q. To what degree did he at any time after his attack, regain the power of motion in his paralysed leg? 2079

A. In the first instance the right leg had very little power, he was enabled only to aid himself slightly with it, in standing; by degrees, as he improved, he walked with the assistance of a crutch, a servant aiding him on one side and his wife with her foot acquired a remarkable knack of lifting up his foot so as to enable him to walk; he continued gradually improving until it was no longer necessary for others to lift the paralysed foot, and eventually he even walked a few times and occasionally without any assistance, I mean from any other persons; but at the best, with the exception of these few times, he required a person to aid him; no, he must at one time have used a crutch without a person to aid him, a good deal. 2080

Q. By what time was the power in the right leg recovered, so as to dispense with the aid of others in lifting the foot?

A. Well, I think within the first year after the attack; within the period of a year; I won't pretend to give dates however.

2081 Q. On which side did he use the crutch when he moved with no other aid or attendance?

A. On the sound side always.

Q. Did he at any time use a cane to walk with?

A. I have no recollection; he may, for a short time; I can't bring up that idea to my mind of seeing any cane.

Q. To what extent was the power of speech implicated in his first attack; and how, if at all, did it vary thereafter?

A. It was mainly abrogated on his first attack, and at any time from that moment to his death there never was
2082 beyond the use of a few monosyllables.

Q. What were those monosyllables?

A. Those in most common use were yes and no; when in pain he would not unfrequently exclaim, oh dear, oh dear; that was a common ejaculation, and at one period during the first year when he had recovered to a great degree, and we were every day hoping that he might speak again, there were a few words pronounced which I do not remember, and they were not repeated.

2083 Q. Did you observe any efforts of Mr. Parish towards speaking beyond these monosyllables?

(Mr. O'Connor objects to the question as leading. Question allowed.)

A. There were efforts from time to time made to a considerable degree; they evidently showed anxiety to speak; he tried to speak.

Q. Through what period did the use of the monosyllables continue.

2084 A. I think through the greater part of his illness; and I am surprised to find that they died away so gradually that I can't tell when they did cease; but it must have been only a few months before his death.

Q. Did he after his attack make any inarticulate utterance?

A. Yes, very frequently, constantly, all of them appearing to me to be attempts at speech.

Q. Describe the manner and sound of these inarticulate efforts?

A. I am not very apt in such matters, but I will do it as well as I can; the most frequent was in the manner of an interrogation where he wished to ask a question, or for you to put him in the way, that is to make suggestions by which he could get information; if, for instance, I had made my usual visit, and he then wanted to learn something more from me, he would look inquiringly in my face and raise his hand and utter some such sound as I believe has been spoken of before, such a sound as nyeh, making a monosyllable of it; that was the most common one with him; occasionally oh and ah, or something like that was used; I cannot give the manner of using either of these, because they were not so distinctive or remarkable; there were always some sounds of some kinds testifying assent, over and above yes, such as we all use; nodding his head, and making a sound, such as other persons use who don't intend to speak; I can't call to mind any other sounds at this moment.

Q. Were any of the muscles or organs of the trunk, except those involved in the power of speech, implicated in his paralysis?

A. None, except during the latter part of his illness; the sphincter muscles and the bladder and rectum were to a certain degree affected, so as to impair somewhat their functions.

Q. Was the effect on these special muscles and functions constant or variable?

A. Variable, very, during a large portion of the time not perceptible, and during much of the time it was doubtful whether the inconveniences he labored under from these causes arose more from morbid irritability of the bladder and rectum than from want of power in their sphincters.

Q. What would be the effect upon the voluntary control over the bladder and rectum, of morbid irritability of the parts, without the presence of any weakness or paralysis of the sphincters?

A. An increased frequency of evacuating these organs, especially the bladder, and if existing in very great degree, sufficient to cause the organ to be emptied so rapidly as not to give the individual an opportunity of seeking a proper place.

2089 Q. Do these conditions of the bladder and rectum obtain with patients disconnected with any paralytic affection?

A. In the bladder, frequently in old persons; in the rectum, more rarely, but occasionally.

Q. After the recovery of Mr. Parish to the ordinary tenor of such bodily health as he gained, how frequently were you in the habit of seeing him?

A. When he was in town during the first four years, perhaps five years, I did not pass many days without seeing him, rarely omitted a day.

2090 Q. Were your visits only medical?

A. Not wholly; that is, they would not have been so frequent to a person about whom I felt indifferent, except merely as a patient.

Q. While he was in the country at Hellgate, within the period last inquired of, how frequently did you see him?

A. During the period at Hellgate he had several severe attacks of illness, during which, for a short time, I would see him every day, and at other periods I saw him as often as once a week; I often drove out there to dine, when my family were absent in the country.

2091 Q. At your visits other than during the access of particular disease, in what situation and under what circumstances did you usually see Mr. Parish?

A. When in town, sitting in the library; when in the country, sitting on the ~~grass~~, or if the weather were hot, lying on a couch there.

Q. How, in respect to being alone, or with others about him?

A. He was rarely left alone; occasionally he would be so; it was impossible to leave him alone as a general rule, from his liability to these spasms, about which you have

2092 heretofore inquired.

Q. To what extent, if at all, did the urinary weakness you have spoken of render the presence of an attendant necessary?

A. Very necessary on that account; it was necessary even at times when there was no weakness, that some person accustomed to understand his signs and wants, should be near to aid him in going to a proper place.

Q. How much of remedy or treatment was supplied to him, in the general tenor of his chronic illness?

Spazza

A. After immediate and more dangerous illness had subsided, and the object was to aid the efforts of his constitution in restoring motion to the paralysed parts, several remedies were employed. Strychnine was used. Electro-magnetism was employed, a considerable time. Little else but what was addressed to his general constitution and condition. I depended as much upon urging him to make efforts to employ the paralysed parts as upon any other agent—inducing him to bring to bear upon them the exercise of volition. For that purpose, various contrivances were employed. The great difficulty was with the arm. I gave him a short, thick rod, and made him attempt to raise it, and to grasp it, and to strike with it. These things succeeded to a limited degree, for a short time, and then, as I have already stated, the arm relapsed and became utterly useless. 2093 2094

Q. During this chronic illness, was he under any regimen as to diet, and with what degree of strictness?

A. During a large portion of the time I endeavored to enforce a somewhat strict regimen—abstinence from wine and other stimulants—not entire, but mainly,—reducing the amount of animal food, and restricting it as much as possible; and this was the more necessary in his case, as in his best health, before his attack, he took a great deal of food, was very fond of food; and after his recovery from his first attack, his appetite came up to his former standard. 2095

Q. Were any particular articles of food proscribed?

A. There were some, but the proscription was applied more to the variety of articles of which he was very fond, than their quality—he was very fond of variety. 2096

Q. What particular articles of food were found prejudicial.

A. It was found at one time that poultry, turkey or chicken were very apt to put him out of order; soup was an article that I found disagreed with him and prohibited; he was exceedingly fond of hot cakes in the morning, which I was afraid of; well, apart from that, it was as I have already stated an endeavor to simplify his diet, presenting a variety and then allowing him a choice; of course I went into some detail of prohibiting indigestible articles. 2096

Q. Before his attack had you any occasion as his physician to prescribe any regimen of diet ?

A. Yes, and I considered it very necessary in his case I have mentioned that he had several slight seizures threatening apoplexy, and I tried to enforce then a careful diet and regimen, but with very little success ; I mean in inducing him to restrain his appetite ; in that, as in all other things, he loved to have his own way, and did have it.

2097 Q. After his attack how did you find him in regard to the observance of regimen, as compared with his disposition and conduct before his illness ?

A. For the first few years he was more amenable to advice in these particulars, than when in good health previously to the attack ; but gradually he became less and less under control, and in fact during the latter year or two found it made so little difference when he indulged in his own way, that I ceased to urge it upon him.

2098 Q. How was the general temperament of Mr. Parish affected by, or after his attack ?

A. His nervous temperament became very much impaired rendering him irritable, more easily excited than before and to a certain extent changing his disposition ; I should have said his nervous system became impaired instead of his nervous temperament.

Q. How did this impression upon his nervous system manifest itself ?

2039 A. As I have already stated, mainly by altering his disposition, but also by causing emotions of almost any kind to be more easily excited ; if for instance, a former friend would see him for the first time after his illness, it excited him sometimes to a violent paroxysm of weeping ; this was the principal effect produced, aside from the effect upon his disposition generally.

Q. What was the general temper of Mr. Parish as to gravity or mirthfulness prior to his attack ?

A. He was a pleasant, rather a joyous man in his disposition ; fond of a frolic, I should say, loved lively and gay conversation, anything that excited a laugh.

3000 Q. Upon what subjects, prior to his illness, were his thoughts or attention engaged ?

A. He was a thorough New Yorker ; business almost entirely occupied him.

Q. What was his temper as to cheerfulness after his attack, and was it constant or variable?

A. It was very constant, entirely changed from its previous condition—habitually unhappy ; his countenance always wore an unhappy expression, and it was a very rare thing to see him smile.

Q. Did you acquire from your observation of, or attendance upon him, any knowledge of the cause of this unhappiness or depression?

A. It appeared to me obvious that it was his condition and despair of recovery, more especially of the powers of speech. 3002

(Mr. O'Connor objects in time to the answer, as stating opinion.)

I would illustrate this by stating that when, from time to time, I would endeavour to encourage him, and give him a hope of eventual recovery, he uniformly would shake his head with the most despairing manner, and now and then, but more rarely, with a melancholy kind of smile, that was almost distressing to witness. 3003

Q. Did you give up, and if so, at what time, the expectation of his recovering the power of speech?

A. I did give it up, but gradually, not at a definite time, becoming less and less hopeful, until after three or four years I had ceased to hope.

Q. What indications, on his part, in relation to the power or exercise of speech, led you to entertain expectations of his recovery of that power?

A. From the efforts which at one time he made to speak, which as I have already stated in a few instances, succeeded ; but as time went on, these efforts gradually and entirely ceased. 3004

Q. From what period did the apparent despair of Mr. Parish as to the recovery of his speech, supervene or manifest itself?

(Mr. O'Connor objects to the question as calling for opinion.)

3005 A. I cannot fix any period; these changes were slow and imperceptible; there was nothing to mark them in the mind, nor to date them.

Q. From what period were the efforts of Mr. Parish towards speaking laid aside?

(Mr. O'Connor objects to the question as calling for a conclusion and as leading.)

A. Without attempting to be precise, these efforts were probably made in the first two years, and not afterwards to any great extent, but as I have repeatedly stated, I cannot fix dates in such things.

3006 Q. What was the general temper of Mr. Parish, as regards evenness or placidity, previous to his attack?

A. Very amiable, very placid habitually.

Q. How was it in these respects after his attack?

A. The change was not sudden, not so remarkable in the early months of his disease; but by degrees he became more and more irritable; this irritability I did not however attribute always to a change of disposition, but to the simple fact of constant difficulty in making himself understood. Again I may explain farther that in his case as in the case of all mutes, the attempt to make up for the want of power of speech, by violent gesticulation, was constantly made, and this gesticulation gives the appearance of anger when none is felt.

3007 Q. What tendency, if any, towards irritability of temper, does sickness or the condition of an invalid generally produce?

A. It sours most tempers.

Q. What tendency, if any, has impaired health and restriction or confinement, in respect to the strength of the nervous system?

3008 A. It impairs the power of the nervous system and increases its irritability.

Q. Is this its tendency as a mere condition of illness independent of the specific character of the disease?

A. As a general rule it is true, more especially in painful diseases, but with numerous exceptions in particular cases; consumptives for instance, maintain amiable temper throughout.

Q. What was the general temper of Mr. Parish before 3009 his illness, in respect to firmness or pliability of will ?

A. He was a man of very firm temper, very decided in carrying out his determination, when once fully made, although as I have already stated, they were made slowly, and I might even apply the term obstinate with correctness, to his disposition.

Q. What was his general temper, in the respects last inquired of, after his attack ?

A. I observed no very marked change—if any, the last word, obstinate, was more applicable.

Q. What was the manner and demeanor, as to intimacy 3010 and affection between Mr. and Mrs. Parish, during their married life, up to the attack ?

(Mr. O'Connor objects to the question as leading—question allowed.)

A. There was nothing remarkable in it ; he exhibited no want of affection ; he was always amiable, kind, indulgent, exceedingly ; he was not a man of sentiment, but I should say that perhaps the first part of my answer comes as near right as possible—there was nothing remarkable, there was 3011 the ordinary amount of affection of husband and wife as between most married couples.

Q. What was the manner and demeanor of Mr. and Mrs. Parish towards each other after the attack ?

A. With regard to Mrs. Parish she was undeviating in her devotion to her husband during his entire illness in every possible mode which could be expected of a good wife ; she would occasionally be disturbed, and her nervous system, from long continued watching and distress, as well as his, would sometimes be acted upon ; in this respect, however, exhibiting no more than the common infirmities to which human dispositions are liable ; as to Mr. Parish, 3012 for some time, there was no remarkable change, but he gradually became more nervous, more irritable, and especially as in the matter of diet, it was necessary to cross his inclinations very frequently and very constantly, and his wife was necessarily the instrument through whom all these crosses were inflicted, he frequently betrayed anger,

3013 and exhibited it by violent gesticulation, but it quickly passed away, and he would relapse into his ordinary condition.

Q. What was the habit of intercourse between Mr. and Mrs. Parish before the attack, as respects the influence of the one over the other ?

A. I should say generally that Mr. Parish was in the habit of having his own way, and not being influenced by his wife, but nevertheless he was an indulgent husband.

Q. How was it in this respect after the attack ?

A. As far as she had influence at all, it became gradually lessened as far as I could see, which I attributed to the fact
3014 already stated of the necessity under which she was placed of constantly crossing him.

Q. Upon what occasions and as from what causes did you see exhibitions of irritability on the part of Mr. Parish after his attack, of which you have spoken ?

A. Upon occasions, for instance, where articles of food he was fond of he would be urged not to take ; now and then when he was apparently proposing a question to somebody, and anxious to get the information, he would not allow her to interpret for him, and was impatient, and this would, of course, get him into greater difficulty and increase his im-
3015 patience.

Q. What were the habits of Mrs. Parish previous to the attack in regard to her intercourse with general society.

(Mr. O'Connor objects to the question as irrelevant.)

A. She was fond of society and in the habit of going much into society before the attack.

Q. How, in respect to places of fashionable assembly or amusement ?
3016

(Mr. O'Connor objects to the question as irrelevant.)

A. She went into society to a considerable extent ; was fond of the opera : but beyond mere assemblages of persons, in the form of parties, and the opera, I don't know any other mode of amusement she particularly affected.

Q. How in regard to entertainments of a general or a special character at her own house ?

(Mr. O'Connor objects to this set of inquiries as irrelevant.) 3017

A. They were given from time to time; more frequently small parties than large ones; she was not remarkable in that respect.

Q. How was the habit of Mrs. Parish after the attack in the various points of intercourse with society, concerning which I have just inquired?

A. Utter seclusion from society, and entire devotion to her husband.

A. Did she occupy the same sleeping-room that he did during the whole of his illness? 3018

A. I imagine not, but always within reach—much of the time in town; I think, in an adjoining room; at the country house where there was less room, she occupied a corner of his room behind a screen.

Q. For how long a period, at any one time, have you known of her being out of the presence of her husband, aside from sleeping hours?

A. Very little of the time since his illness; her health broke down after some years so seriously, her spirits were so much impaired by this constant devotion that I, as a 3019 physician as well as brother, and the rest of our family, constantly urged her to partake of amusements, to go into society, and to allow other persons to administer to the wants of her husband; but our efforts had not much success.

Q. What were the habits of Mr. Parish after he had recovered from his first attack and the following illness in October, which you have mentioned, as to seeing callers or visitors at his house?

A. He saw a great many persons at different times; it was the habit of the house for persons to come in much on Sunday evenings; at some period, I can't fix it, after his 3020 illness they saw company on New Years day; Mr. Parish would be in the room and see any person that called as Mrs. Parish did; upon another similar occasion, New Years day, he remained in the library on the first floor, with the door open, so that every person who passed up stairs saw him, and his particular friends stopped going up, or returned and would speak to him; still later, Mrs. Par-

3021 ish once or twice during the holidays would have company, generally her own connections and intimate friends, not large parties; Mr. Parish would always be present on these occasions and receive many of the persons whom he knew, shake hands with them; he evidently recognized all those with whom he was acquainted, and showed a special pleasure in seeing some of them.

Q. Were you ever present on Sunday evenings when there were callers or visitors, and notice any intercourse between them and Mr. Parish?

A. Very frequently.

Q. What was the habit on such occasions as regards intercourse, salutations, or otherwise, towards Mr. Parish?

A. The habit was uniformly for every person who entered the room to speak to him, and most of them would shake hands with him; he would extend his hand for the purpose.

Q. How did Mr. Parish indicate any sentiment towards the persons who addressed him in this way?

A. If they were persons he was well acquainted with, and fond of, the expression of his countenance would indicate pleasure; he would show more satisfaction in seeing them than in seeing others; younger members of the family would often enter the room, and be not much noticed; older persons, those he especially felt much interest in, would uniformly receive more attention.

Q. On these evenings have you seen persons other than members of his or Mrs. Parish's family communicate with him?

3023 A. Repeatedly, frequently.

Q. Do you know, and if so, state on what topics they so communicated with him.

[Mr. O'Connor objects to the question as calling for opinion, and not facts.]

A. We were all in a moderate sized room, and there was no difficulty in hearing everything that occurred; the topics would of course depend upon the individual; I have heard his old business friends, for instance, giving him the mercantile and political news of the day, talking with him about Wall

street affairs ; frequently about members of the family of 3024
the individual talking with him, in whom he felt interest ;
old Dr. Wheaton of the army was a great favorite of his,
and, when in town, would talk with him about everything ;
Major McDouall of the army was often there, and I re-
member a striking instance of the interest Mr. Parish took
in his conversation ; he was detailing many particulars
about the fortifications around this harbor, which this last
few months we have all been interested in and anxious
about ; he went into the affair in so interesting a manner,
that all general conversation ceased, and we all listened to
him ; Mr. Parish paid the strictest attention, although it was 3025
a long conversation ; and upon one occasion, when one of
the younger members of the family, somewhat interrupted
this detail, by commencing a conversation in an undertone
with Mrs. Parish, Mr. Parish checked it in a manner that
was somewhat angrily, impatiently ; the young man did
not fully appreciate the difficulty, and resumed the conver-
sation after a few minutes, and it was met by a similar
check ; this occurred during the latter part of the evening,
and as Major McDouall was about to leave the room, Mr.
Parish beckoned to Major McDouall to return ; made him 3026
understand that he wished him to return ; he did return ;
Mr. Parish then looked at the Major and then at his wife
again and again in a manner which all that were accus-
tomed to him perfectly understood ; this was Saturday night,
and we understood him to request him to dine with him the
next day ; Mrs. Parish then asked him the question direct-
ly, Do you wish the Major to dine with you to-morrow ? to
which he answered by repeatedly making affirmative nods
with his head, and showing much satisfaction ; he also
made some little sounds at the time, which I cannot de- 3027
scribe ; similar things I witnessed time and again, but this
happened within a few months, and I recollect it in detail.

Q. To whom was this conversation of Major McDouall
at its commencement, and before it attracted general at-
tention, addressed by the Major ?

A. Well, it very soon attracted general attention ; I can
hardly answer any more than that ; who commenced the
conversation I can hardly say ; I took a good deal of in-
terest in it myself.

3028 Q. Did you at any time after the attack, and if so, how soon, speak to Mr. Parish in respect to his bodily condition ?

A. The first time I can't fix upon, but certainly within a few days I spoke to Mr. Parish asking him questions with regard to his condition. The only mode by which I can fix is that before I left town, I was at each visit in the habit of obtaining information from him as to his own feelings, that I would in any other case, only taking care to arrange my questions so that they could be answered by a simple assent or dissent.

3029 Q. Did you suppose that Mr. Parish understood the questions which you at that period put to him concerning his bodily condition ? (Mr. O'Connor objects to the question as matter of opinion—question allowed.)

A. I never doubted it.

Q. From what indications did you so suppose ?

A. Mainly by expression of countenance; much by gesture of assent or dissent, and somewhat by the words yes or no, which he then began to use.

3030 Q. Did you in your medical treatment act upon his answers to your questions ?

(Mr. O'Connor objects to the question as leading—objection sustained.)

Q. Did you act in your medical treatment in reference to his answers ? and if so, in what manner ?

A. I always assumed these answers as a part of the information upon which I based my medical treatment.

EDWD. DELAFIELD.

Subscribed and sworn before me, }
this 23d day of June, 1856, }

A. W. BRADFORD,
Surrogate.

11

June 24, 1856. 3031

Parties present.

Judge Sherman appears as counsel for Ann Parish and Mrs. Sherman.

Edward Delafield, being further examined, says :

Q. After the illness of October, and Mr. Parish's recovery therefrom, did you attempt to hold communication with Mr. Parish ?

3032

A. I did constantly.

Q. In what manner, and upon what subjects, and with what result ?

A. Of course the subjects were mainly those connected with his condition as an invalid ; I would often commence by a general inquiry of simply how he felt to-day, which of course he had no distinct mode of answering, that is, by words ; I could always easily collect however from his manner, his expression of countenance, and the gestures of his head, that he felt better, or felt worse ; I would of course then go into detail, and ask questions directly ; of course it is not expected of me to give the language I used ; it is not expected of me to give the phraseology for seven years ; I will give the expressions as I have them ; my inquiry, for instance, would be whether he suffered pain in his head, a symptom which was to be looked for ; he would generally utter the word "no," with a shake of the head ; if I would inquire whether he suffered in the region of the bladder, which he often did, whether it had been necessary in the course of the night to use an instrument to relieve him in such cases he would generally put his hand to the particular part inquired about, and then make me understand yes or no in the manner already stated ; and so of every other question that was put.

3034

Q. Did you attempt to hold intercourse with him, or to convey information to him on other than topics of your medical attendance ?

A. Occasionally I did.

Q. In what manner, and with what result ?

A. Some subject that I thought would interest him in

3035 any way, some news that I had heard; some persons that I knew he had felt an interest in, that I had known about, would be the subject of such conversation; I could only judge from his manner and expression of countenance, but precisely in the same mode that I should judge of those of the surrogate, whether he understood me, and I never had any reason to doubt (Mr. O'Connor here objects to the opinions of the witness on this head) that he understood what I said to him, with the exception that occasionally, when very severely suffering, he might not pay the same attention to me as usual.

3036 Q. Did you suppose in your intercourse with him, whether of medical attendance, or on such other topics as you have referred to, that he did understand you?

(Mr. O'Connor objects to the question as calling for opinion, and as leading. Question allowed.)

A. I did so suppose, most certainly.

Q. Did any variations occur in this respect at different periods, after his revival from the first shock?

A. They did; occasionally after a few of the more severe spasms that he suffered, he would be left for a few hours
3037 insensible or nearly so, but it was remarkable that on his recovery from these spasms he was always brighter in manner, and more amiable in disposition, and generally better in health.

Q. Did you ever see Mr. Parish read after his attack?

A. Often, very often; I have often found him reading the newspaper; I have put one into his hands to show him particular things, as I have already stated, in ascertaining the amount of sight; I have put papers in his hands for the same object; I have seen him look over his own business papers, as I entered the room I found him so occupied, and as a general rule intelligently and understandingly.
3038

Q. Did you ever make any experiments in regard to the application of spectacles to his eye-sight?

A. I have already answered that question; at the time he was complaining of his eyes, after his attack some years doubting whether his sight was failing or not, I tested it with cataract-spectacles of different degrees of convexity but found that there was no material change of his sight

and I believe no material change was made in his glasses 3039 so far as I remember.

Q. Was trial or examination of spectacles for his use made more than once?

A. Oh, repeatedly.

Q. Did Mr. Parish take any part, and if so, what, in these experiments?

A. The experiment would have been preceded by requesting him to call upon an optician for different glasses, or I myself would order such glasses to be sent to his house. I won't be precise as to the mode. When I would call, he would complain of his eyes in his usual manner, which at that time he did a great deal; and when the glasses would be produced he would look at me expectingly, but evidently so that I understood him; would sometimes take off the glasses he was then wearing, but more frequently make 3040 some inclination for me to do it; when I would put on another pair and hand him a newspaper or some other article to read, he would himself hold it before him in his left hand, would look at it carefully, just as other patients would, at different distances, and he would then either shake his head that he couldn't read it, or nod his head several times, by which I understood that he could read it, as I tried different glasses—so that I may confidently say, that any person looking on would have discovered no difference between this trial with Mr. Parish and any other person, except that he did not speak.

Q. You have spoken of Mr. Parish subsequent to his 3041 attack having been troubled with floating of motes before his eye; how did you judge that such was the case?

A. Partly by negative evidence,—by the fact that I could discover no want of sight in my trials; and when I would so say to him, he would pass his hand repeatedly before his eyes, as if something was troubling him, as if some object interfered with his comfort. On asking the question directly, he would always give me to understand that that was the difficulty, but I always, at the same time, had the impression from the painful expression of his countenance in drawing my attention to it, and his repeatedly sending for me in regard to his eyes, and questioning me about them upon every visit for many weeks, that he had the greatest fear of becoming entirely

3042 blind. I believe, at that time, that was a greater subject of unhappiness to him (Mr. O'Connor here objects to the opinions of the witness) than even his loss of speech.

Q. Were the muscles of the face implicated in the first shock of his seizure?

A. They were slightly, but much less than usual. This almost entirely disappeared in the course of his illness.

Q. After the fall of 1849, what was the condition of his face in regard to mobility of muscles and expression?

A. Hardly different from that of any other individual—any healthy individual, I had better say.

3043 Q. How was it compared with his previous condition before his attack?

A. There was no material difference; I would make a slight exception; at some period, I can't say when, there was occasionally a slight flow of saliva from one side of the mouth—very slight, and not perceptible by common observers—which showed that the muscles of that side of the face, although not altered in appearance, were really not so strong as those on the other side.

Q. Do you know of any attempts at writing on his part?

3044 A. There were frequent attempts; the first that he made was under my own direction; he seemed shortly after recovering his senses after the first attack to be anxious to communicate something, and this was repeated from day to day; not being able to understand it, not then having become so familiar with his modes of communication, I tried the experiment whether he could write; I presented to him, I am not quite sure as to the real object, but my impression is it was a book to write on the fly leaf; he was lying in his bed at the time with very little strength, and as I or some other person held the book, I am not certain, at all events the book was held before him under my direction;
3045 he began to write with his left hand with a pencil, and he made characters; this experiment was tried several times; certainly on paper more than once, and my strong impression is, on a slate several times; the characters were always the same, and were construed to mean the word "wills," sometimes commenced and the word partly finished, and then beginning again; that is all as to that period.

Q. Who was present on this occasion that you have referred to? 3046

A. I know that Mrs. Parish was, and presume the nurse or attendant was; but that I merely presume, because he never was without these persons about him.

Q. Was anything said to Mr. Parish or in his presence at the time of this occurrence in relation to it?

A. I have no recollection as to the conversation, if any, which took place.

Q. Before this attempt and action of Mr. Parish, had anything been said on the subject of wills in his presence? 3047

A. I remember no conversation on that subject at all; I have no knowledge of any.

Q. While these efforts and this action in respect to these characters were being made by Mr. Parish, or at their end, was anything said or done by you or Mrs. Parish in his presence?

A. I have an impression, not however a positive one, that upon seeing these characters Mrs. Parish somewhat suddenly exclaimed "Wills," with a good deal of emotion, as if it were an unexpected, startling thing to her. 3048

Q. How, before making these efforts at writing, had Mr. Parish indicated his anxiety to communicate something?

A. I doubt whether I can give anything clear on that subject; my mind was more engaged with his sufferings and with his case, than with matters of this description.

Q. State his manner, and what took place on his part to your best recollection?

A. My answer has already been given; my impression is distinct and clear that he had such anxiety, but the distance of time is too long for me to remember at this distance of time how he expressed it. (Mr. O'Connor objected in time to the opinion and impression of the witness.) 3049

Q. After these efforts at writing, on this occasion, had ceased, what was Mr. Parish's manner?

A. My memory does not help me any further in the matter.

Q. About what time was this occurrence?

A. I presume it must have occurred after I returned from the country, about the 15th of August; I am not absolutely sure that it did not take place prior to my going

3050 into the country on the first of August, but the very improbable.

Q. Can you fix the period of the occurrence of time, if it was after?

A. It must have been within a very few days immediately.

Q. Please state such other attempts at writing within your observation.

A. Some time, I think, in the course of the first after his attack I took and caused to be taken a great number of pains to induce him to write with his left hand. His attempts were limited to his writing his name, and to a certain degree he succeeded; he wrote his name so that it could not be mistaken as being his, more than that, but in most of the other attempts his hand would tire before finishing the entire name; the process was a very difficult one to him, and as I would urge it from day to day, he would become more and more inclined to try, and eventually declined further. These trials were made also at other times in conformity of my directions.

Q. Were the spasms of which you have spoken by any indications of their approach?

A. Mrs. Parish could generally predict the occurrence of the attacks. (O'Connor objects to this evidence.) He was evasive so well, and most strikingly his temper was more so; he was more uncomfortable, and after the spasms would be a sudden and marked change in these matters.

Q. What was the nature and extent of the changes?

A. He was generally more cheerful, but especially placid and gentle in his manner; the unhappy changes were less striking and his movements afterwards somewhat more free and easy; there would be some degree of improvement in his general condition. There were some exceptions to this last, however; after the more violent attacks, he would be some days before he recovered to his previous condition.

Q. Do you remember any recurrence of this attack which you observed as dangerous or critical?

A. Several of them were; one took place in his

n front of Bowen & McNamee's store; he did not come 3053
out of it so that I thought him out of danger, the entire
day, and I very much doubted then whether he would re-
cover; upon another occasion, upon being sent for, I found
his condition so alarming and felt his recovery so nearly
hopeless, that I immediately despatched a messenger for his
brother, Mr. Daniel Parish, and he obeyed the summons.

Q. About what period was this last mentioned spasm.

A. I have difficulty in fixing the time; these spasms oc-
curred over a period of five or six years, and so frequently
as to have left rather a continuous impression on my mind
than any one which fixes dates.

Q. About how frequently did these spasms occur through- 3054
out the course of his illness?

A. They commenced in the autumn or early winter after
his attack; they recurred at first at intervals of four, per-
haps eight, days to three weeks; the intervals gradually in-
creased, and with occasional exceptions the convulsions
were slighter; in 1850 they were most frequent; in 1851-
'52, and '53, they gradually diminished in frequency; in
1854 and 1855 they occurred at long intervals, once six
months, and I think once almost a year intervened. 3055

Q. Was there any period after you returned from the
country in August, until the dangerous period of the illness
in October, when you regarded Mr. Parish in a dangerous
condition as to life?

(Mr. O'Connor objects to the question as leading. Objec-
tion sustained.)

Q. Between the time of your return to the city in
August, and the dangerous period of his illness, in October, 3056
of which you have spoken, what was the condition of Mr.
Parish in the aspect of danger to his life?

A. I think that during that period there was a steady
and rapid improvement, and that I had ceased to have
much apprehensions for his life at that time.

Q. Have you any recollection of expressing during that
period any judgment or opinion in this regard?

(Mr. O'Connor objects to the question as irrelevant, and
inadmissible generally. Question allowed.)

3057 A. I could have given no unfavorable opinion, after what I have already stated, as to Mr. Parish's then condition.

Q. After Mr. Parish's attack, was your attention drawn to the condition of his mind, and if so, how soon did you observe or consider concerning it?

A. Immediately after the attack; it was one of the subjects of most earnest inquiry.

Q. What did you observe on that subject, from the period of his attack down to the 29th of August following?

A. That he quickly within a few days, I can't again fix the time, but within a very short time, understood in (Mr. O'Connor objects to this,) and I was enabled to get intelligent answers, either yes or no; I am not speaking of words, I mean that I understood him, and as the time went on from the one period to the other, the facility of the communications become greater.

Q. Did you during that period respecting which I have inquired, form a judgment as to the condition of his mind?

(Mr. O'Connor objects to the question. Question allowed.)

3059 A. I did from such judgment—as my previous answers have already declared.

Q. What was the condition of his mind during the period last mentioned?

(Mr. O'Connor objects—question allowed.)

3060 A. Well as I have already stated it became during the whole period gradually better, and during the greater part of the time I considered his intelligence of what was said to him clear, and his power of communicating assent or dissent equally clear.

Q. What part of the time covered by the inquiry, do you cover by the expression, "the greater part of the time?"

A. From a few days after the attack, I can't fix the time, two, three, or four, up to the termination of the period indicated—but of this last period now spoken of, not so good at the commencement, because there was a

gradual and progressive improvement ; I would like to ex-3061
plain that I am guarding my expressions as much as I can,
for I cannot remember a period within 24 hours after the
attack in which there was a fair degree of the kind of in-
telligence that I have already explained—my intention by
the word guarding was to mean not to exaggerate in any
degree the amount of intelligence. (The Surrogate having
read the answer over to the witness twice, the witness on
the last reading corrects it by inserting the word “not”
between “was,” and “a fair degree.”)

Q. Were you aware, at any period prior to the 29th of
August, that the execution of a testamentary paper by Mr.
Parish was under consideration ? 3062

(Mr. O’Conor objects to the question as leading. Ques-
tion allowed.)

A. I was so aware.

Q. Did you, during that period, give consideration to
the condition of his mind in reference to that subject of the
execution of a testamentary paper by him ?

(Mr. O’Conor objects to this as leading.)

A. I did.

Q. Did you form any, and if so, what judgment in refer-
ence to his mental condition for the execution of a testa-
mentary paper ?

3063

(Mr. O’Conor objects to the question as incompetent.
The objection is sustained.)

Q. From the recovery of Mr. Parish from his illness, in
October, 1849, down to the period of his death, what was
the condition of his mind ?

(Mr. O’Conor objects. Question allowed.)

A. I considered him as possessing a great degree of in-
telligence ; as fully capable of understanding everything
that was said to him, and of being able to answer, as far as

3064 could be done without the power of speech ; I might say that during the last weeks of his life, he was very dull and heavy, but still with the same power of understanding and answering.

Cross-examination by Mr. O'Connor.

Q. Can you not give the precise date of Mr. Parish's marriage ?

A. No, sir, I cannot ; it was in the year 1828, I believe, but nearer than that I cannot come ; I was present at it ; the Rev. Dr. Berrian was the minister ; that is my impression ; it took place at my mother's house.

3065 Q. Had your sister any property at the time of her marriage ?

(Mr. Cutting objects to the question as irrelevant. Question allowed.)

A. Not at that time.

Q. Did any property accrue to her subsequently, and when, and how much ?

3066 A. At the death of my mother, and again at the death of my sister Emma, and at the death of my brother William ; my mother died about 17 years ago, and my sister received from her personal estate only, not over \$5000 ; Emma died in December, 1846, and Mrs. Parish received from her personal estate also ; whether the whole of my sister's portion or her proportion of it, I cannot now call to mind ; by Emma's portion, I mean her share in the estate of her mother, not over \$5000 ; from William, Mrs. Parish received personal estate only, and that to about \$10,000.

Q. What is the age of Mrs. Parish ?

A. She must be nearly fifty or thereabouts.

Q. Can you state the year in which she was born, from recollection ?

A. No, I cannot.

Q. Where did the family reside at her birth ?

A. In the city of New York, in Wall street.

Q. What church did they attend at that time ?

A. Trinity church, in this city.

Q. At the time of the marriage of Mrs. Parish, was 3067
Mr. Parish a merchant in business here, reputed to be
wealthy?

A. He was, both.

Q. Did you understand at that time, that he was a direc-
tor in the Phoenix Bank?

A. I did not know the fact at that time.

Q. Did you ever know it?

A. I have known it since certainly.

Q. When did it first come to your knowledge?

A. I can't fix any period; it was a matter in which I
took no special interest—nothing to fix it.

Q. How long before the marriage were you acquainted
with Mr. Parish, according to your best present recollec-
tion? 3068

A. A year or two.

Q. Were you his medical adviser at all, or to any extent,
prior to the marriage?

A. Not at all.

Q. Where were you in the habit of meeting him, during
the period prior to the marriage?

A. He lived next door to me in Broadway, and I saw
him from time to time incidentally, except that I imagine,
only at my mother's house.

Q. Was he a boarder, or did he keep house at this place
next door to you?

A. He was a boarder at Mrs. Keese's.

Q. During that period, did you meet him frequently at
your mother's house? 3069

A. I was not residing with my mother at the time; kept
house myself, and was not much there at his visits.

Q. Do you mean by this, that you did not see him fre-
quently at your mother's house?

A. I did not; or perhaps a better answer would be that
I have very little recollection on the subject.

Q. In saying you saw him incidentally, do you mean
that you merely met him in the street, or how other-
wise?

A. I imagine that was all.

Q. Did your late brother John Delafield reside in New

3070 York at the time of the marriage, and what was his occupation?

A. My brother resided in New York at the time, and was then cashier of the Phoenix Bank.

Q. Did you know Jacob Parish, the father of Mr. Henry Parish, and for how long a time?

A. I knew him when he was my patient at Mr. Henry Parish's house, where I operated upon him for cataract; he was under my care there for two or three months, and afterwards when he came to town I saw him two or three times.

3071 Q. About what period was that operation?

A. Well, I should have to guess—perhaps twenty years ago—fifteen would be nearer perhaps.

Q. Did you know James Parish, the brother of Henry?

A. I never remember to have seen him.

Q. Did you know Thomas Parish, the brother of Henry?

A. I knew him; he was under my care at his brother Henry's house, during a serious illness, and I believe his last illness; it was in Barclay street; I can't state the date of his death; it was twelve or fifteen years ago I think.

3072 Q. Did you attend him more than once—for more than one illness?

A. I think so.

Q. For about how long a period did you know him and act as his medical adviser?

A. It was all probably within a twelvemonth, and all at his brother's house; at first for some few days probably, some slight illness, and at his last illness for several weeks.

Q. Of what disease did Thomas die?

A. I cannot remember; the case has left no impression on my mind.

3073 Q. Can you remember what disease he had at the time you attended him?

A. I cannot.

Q. Can you state any other complaint or predisposing disease which, from your observation or the statements of Henry Parish, Jacob Parish had, besides cataract?

A. I remember nothing else.

Q. Did you form any judgment upon, or ascertain, in any way, the source or cause of that complaint in Jacob Parish?

A. It is a disease incident to old age, but beyond that 3074
there was no circumstance leading to it in that gentleman
which came to my knowledge, in any way peculiar to him.

Q. Did you hear of his death?

A. I think I did; I must have heard it spoken of at the
time.

Q. Did you hear it stated at the time what he died of?

A. I do not think that I did.

Q. Did not you hear it stated about the time that he had
died of apoplexy?

A. Well, now that you mention it, some such impression 3075
is on my mind, but it is indistinct.

Q. If you did not know it before, did you not inquire
when Mr. Henry Parish was threatened with, or suffering
from apoplexy, whether that disease had existed in his
parent?

A. I have no doubt that I did, but that and all the other
little details of questions I should have put at the time I
do not remember.

Q. Is it a fact that you do not now remember whether or
not you inquired or informed yourself as to his father's hav-
ing had apoplexy when or before you were attending Mr.
Henry Parish for that complaint? 3076

A. It is a fact; the question is one which, as a matter of
course, must have been put; and the inferences having been
drawn from it, it was no longer of any importance to me.

Q. When did those inferences cease to be of importance
to you?

A. The question was one of little importance to the case
at any time, and when once it was received as a part of the
general information connected with it, it would not after-
wards have engaged my attention.

Q. Can you now remember whether you had in any way
upon your mind during the life of Henry Parish, the fact 3077
that his father had had apoplexy?

A. I cannot remember it, but must have known it, from
the seizures to which Henry Parish was subject.

Q. Do you mean to say that these seizures themselves
informed you of it?

A. No; that they would have naturally led to the ques-
tion; but the whole matter was of slight importance in my
view of the case.

3078 Q. Do you now know, or remember that any one ever informed you that Jacob Parish had apoplexy, or that you ever knew it?

A. I do not now know or remember.

Q. Do you know Miss Ann Parish; she is sometimes called Nancy; the sister of Henry Parish?

A. I do know her, and have seen her repeatedly.

Q. About how long have you known her?

A. I think she took care of her father when I operated upon him; I am not quite certain; and if so, from that time up to the present I have seen her from time to time.

Q. Were you ever her physician or medical adviser?

A. Not that I remember.

3079 Q. Did you not act as her physician, or as a consulting physician on her case when she was affected with cataract and with paralysis, or both?

(Mr. Cutting objects to the question, as assuming as fact what has not been proved—question allowed.)

A. I think not; if I did so, it must have been some single visit or two, which left no trace on my mind; I have a thousand such in a year; say hundreds; that expression was too strong.

Q. Would even a single attendance upon the sister, your brother-in-law Henry Parish, for such complaints are mentioned in the last question, make no more impression on your memory than the hundreds that you have

3080 referred to?

(Mr. Cutting objects to the question, as irrelevant—question allowed.)

A. It would if at my brother-in-law's house, not otherwise.

Q. How long have you known Mr. Daniel Parish?

A. From about the time of his brother Henry's marriage down to the present time.

Q. At what period, and for how long a time, did you act as his medical adviser?

A. Before he went to Europe, and while the two brothers

resided in Barclay street, I attended him for three or four 3081
months, consecutively, at intervals.

Q. About what date did he go to Europe, and about how long was it after this attendance?

A. He went to Europe by my advice shortly after the attendance ceased; it must have been after Henry went to Europe, I think; but I won't undertake to be precise.

Q. What was the difficulty with Mr. Daniel Parish which induced your attendance and your advice to go to Europe?

A. Dyspepsia in a very aggravated form, and an exceed- 3082
ing disturbed nervous system.

Q. Was not this attended with great pain or other difficulty in the head?

A. It was; that was a very large portion of his suffering.

Q. Was not that continued in a more or less aggravated form?

A. I have no knowledge of the state of his health for a considerable time past; I know when he returned from Europe that he was not well, although much improved. 3083

Q. Do you know of any change in his condition in those respects since he returned from Europe?

A. I do not minutely; I have inquired from his family as to his health from time to time, and I think he has advised with me on the subject since he returned from Europe, but to no great extent; I answer the question, I do not.

Q. Have you been medical adviser to any other member of Mr. Daniel Parish's family since Henry's attack in 1849, except Mrs. Robert J. Dillon?

A. I have been consulted about several of the children, 3084
at different times, by Mrs. Daniel Parish; but I have not been their family physician.

Q. Have you, since that attack, been in the house of Mr. Daniel Parish, from time to time, on several occasions?

A. I think not since Mr. Henry Parish's attack.

Q. Have you ever been in Mr. Daniel Parish's house since that attack?

A. Not that I remember.

Q. Where was it that Mrs. Daniel Parish consulted you about her children since the attack on Henry?

3085 A. I must have been in error as to the date; I think upon some occasion Mrs. Parish has consulted me at Mrs. Dillon's since the attack; but the cases I had in my mind must have occurred before Mr. Henry Parish's attack; I merely judge so from recollecting being consulted at the house in Barclay street in these cases, while I do not remember having been at Mr. Daniel Parish's house since the attack.

Q. Do you now remember having been consulted anywhere or about anything by Mrs. Daniel Parish, since Henry's attack?

3086 A. Not distinctly, but I have met Mrs. Daniel Parish repeatedly at Mrs. Dillon's, and conversed with her, but whether one of the cases that I remember was talked of there or not, I am uncertain.

Q. When did Mr. Henry Parish first call for your aid or advice in respect to his eyes?

A. Between two or three years before his attack.

Q. Had you known before that, that he had always been blind in one eye from cataract?

A. I think I did not know it.

Q. Did he tell you that he had been always blind in one
3087 eye?

A. I first learned it by examining the eye; the word "blind" is too strong; the eye was very imperfect, not absolutely blind.

Q. Did you learn from the eye itself without reference to his conversation, that that had always been its condition?

A. No, I only learned that from himself, and in using the word "always," I mean simply, that eye had been impaired so long a period that I understood it to be from birth; the fact whether it was from birth, or had come on
3088 within a few years, was of no importance in his case.

Q. How long was he under your advice in reference to the eyes before you operated?

A. For several months; the disease in the eye of which he complained was not at first distinct; after a time the cataract began to show itself there, that became partially blind, and then the other eye was operated upon which was already useless, or nearly so.

Q. Did you operate on both eyes at the same time, and 3089 if not, at how long an interval?

A. At different times; and after an interval of several months.

Q. Which was the eye which you supposed to have been affected with cataract?

A. The left eye.

Q. Did your operating on that eye improve it, or render it blind, or was it neutral in its effects so far as you perceived?

A. The operation failed, and probably rendered it somewhat more blind than before; it was of little or no value before, and the operation probably made it a little worse. 3090

Q. Was he yet living in Barclay street when you operated on the right eye?

A. Yes, I think so; certainly he was.

Q. Was it not a year before he left Barclay street?

A. I think that very probable.

Q. How long were you attending Mr. Henry Parish for this complaint of the eyes?

A. Probably from eighteen months to two years.

Q. How long before he left Barclay street, according to 3091 your best present recollection, was the termination of this period of eighteen months or two years?

A. I can state it no nearer; I kept no accounts in my books of any kind against Mr. Henry Parish, and I have nothing in books from which to get the dates, other than simple memory; the difficulty is this, I continued to see Mr. Parish from time to time, and inquired about his eyes, not as a physician for a long time, and that extended to the time of his removal into Union Square.

Q. Was part of the discipline for that malady at this 3092 period of your attendance, confinement to the house?

A. Yes, after the operations.

Q. For how long after the last operation was he confined to the house?

A. Three or four weeks at the utmost.

Q. About how long before he quit Barclay street was that?

A. Well, perhaps a year.

Q. Did this malady or the operation for his cure confine

3093 him to the house any other period than those for
and if so, how long?

A. Not for the eye you are now speaking of;
no other confinement for that eye; but there was
confinement after the operation on the first eye;
perhaps six weeks; there was more inflammation
it, which made longer confinement necessary.

Q. During these periods of confinement, say six
weeks, about how often were you at the house
Parish?

A. At first every day, and afterwards every
3094 third, or fourth day, as might be required.

Q. How much time do you intend to cover in
stance by the phrase "at first."

A. Probably at least a fortnight, and after the
on the first eye, somewhat longer.

Q. How long was your visit commonly, and was
day time or at night?

A. Always in the day time, and from 10 to 30
long.

3095 Q. On these occasions did you invariably give
attention to the other inmates or visitors of the house
know whether or not particular members of the family
there?

A. Probably not.

Q. Was it your usual custom to do so?

A. It was not.

Q. You say you have no recollection of having
Daniel Parish, or any of his family, at the house
your attendance for the eyes, do you mean to say
remember not having seen any of them there during

3096 period?

A. I simply do not remember having seen them.

Q. Do you now remember any other particular
whom you did see in the house during those attendances
except Mr. and Mrs. Henry Parish and the servants?

A. I do not.

Q. Have you any doubt that you did during
attendances see many other persons there?

A. I feel well assured I saw very few persons
I look back to those visits and bring them up before me.

mind, it was always Mr. and Mrs. Parish with perhaps a servant or two.

Q. Was Mr. Henry Parish during any and what part of these confinements to the house kept in a darkened room 3097

A. For two or three weeks in each instance in a shaded room—never dark.

Q. Do you know Mr. Henry Parish, Jr., the nephew of of the deceased ?

A. I have known him, but not recently met with him.

Q. Will you say that you did not meet him at the house of Mr. Henry Parish during those attendances of yours ?

A. No. I will not say that I did not see him, but simply that I do not recollect seeing him.

Q. Did not Mr. Henry Parish tell you that, during the 3098 time of these attendances, his nephew Henry used to come in and read for him ?

A. If it were so it has escaped me ; I have no recollection of it.

EDWD. DELAFIELD.

Subscribed and sworn before }
me, June 24, 1856, }

A. W. BRADFORD,
Surrogate.

June 25, 1856. 3099

Parties present,

Edward Delafield, being further cross-examined, says: Before any further questions are asked, I wish to make some corrections. I stated a conversation as having taken place, at Mr. Henry Parish's, on Saturday night; it should have been Sunday night. On my cross-examination, yesterday, I was asked the question whether I had been in Mr. Daniel Parish's house since his brother Henry's illness. I was there, for a few minutes, on Sunday, after Mr. Henry Parish's death.

Q. Do you believe the date of Mr. Parish's marriage, as stated in the certificate now shown you of the Rev. Dr. 3100 Bernian, to be correct?

A. I have no reason to doubt the correctness of that certificate. (Ex. No. 67.)

Q. Please look at this certificate of birth, from the same source, and say whether you believe that to be correct?

A. I make the same answer. (Ex. No. 68.)

Q. Was there ever any issue of the marriage of Mr. and Mrs. Parish?

A. There was none.

Q. Where did your mother die?

A. In the city of New York.

Q. Who was her executor or administrator?

A. My brothers, Joseph and Henry, as I believe. I be- 3101 lieve she left a will; yes, she did.

Q. When Mr. Parish moved from Barclay street, did he move directly into the house in Union square?

A. I think he went from Barclay street in the early summer, to my brother's house, at Hellgate; and in the autumn went into his house in Union square.

Q. Do you remember the occasion of the first opening of that house for company?

A. I have no distinct recollection on the subject. There was something I know that took place.

Q. Was not that house first opened for the reception of company, and an entertainment thereupon given, on New Year's Day?

3102 A. I have no recollection on the subject.

Q. Do you recollect how long, prior to Mr. Parish's attack, was that autumn in which the family moved to Union square?

A. I have obtained the date at which the family moved to Union square, from another source—not my own memory. It was in the autumn of 1848.

Q. Have you no recollection that on the first New Year's Day after that, that house was opened for company, and an entertainment given?

A. I repeat the answer already given to that question. I have no recollection on that subject.

Q. You have spoken of a certain New Year's Day when Mrs. Parish received her company up stairs, and Mr. Parish remained in the library, on the floor below, and received his friends before their going up, or on their coming down. Was that before, or after his attack?

A. After his attack.

Q. Did you witness that state of things yourself?

A. I did, so far as seeing Mr. Parish on my way up to the drawing room, and I became aware in some mode I cannot remember, but in which I am quite distinct, that persons spoke to him in going up or down stairs.

Q. Did such an occurrence take place to your knowledge on more than one New Year's Day, after his attack?

A. I remember not more than one.

Q. In what year was that, according to your best present recollection?

A. I could not give the date on my direct examination and I can not give it now.

Q. Within how many years after his attack was it, according to your best recollection?

A. Probably three or four.

Q. Is it your best recollection that it was not more than four years after his attack?

A. No—the period might include another year. I have hardly thought of it since sufficiently to fix it in my mind.

Q. Can you say confidently that it was not the 1st of January, 1855?

A. I cannot and think it very possible that it may have been.

Q. Was he, when this occurrence took place, in as good **3105**
health as you have known him to be subsequently to the at-
tack?

A. As I cannot fix the date of the occurrence I cannot
answer the question. I do recall to my mind seeing him
there sitting in the library in his usual manner. That pic-
ture I have distinctly, beyond that little other than what I
I have already stated.

Q. Referring in your memory to that event, although
you cannot remember the date, are you not able to state
how far his health was good at that time relatively to his
general condition during the whole period? **3106**

A. I cannot, for want of the date.

B. In tracing the progress and variations in his health,
is it necessary for you to have dates rather than events that
you have witnessed?

A. Very frequently not.

Q. How is it generally?

A. Generally the event would first come to my mind,
and then I would endeavour to connect with it the date.

Q. Did you keep any record or minute of your attend-
ance upon or intercourse with Mr. Parish during his illness?

A. I have already stated that previously to this illness **3107**
kept no account against Mr. Parish, or intended it to be so
understood in that statement. Shortly after this attack I
began to make regular entries of my attendance and so
continued to do up to the day of his death. I never made
any other memoranda of any kind.

Q. By saying you never made any other memoranda of
any kind, do you mean that you have no note, entry, or
memorandum of any thing beyond the mere fact of a visit?

A. No—what was done if my partner or myself remained
all night, it would be made a charge accordingly. If we **3108**
remained some hours it would be so stated. If we went
to Hell Gate it would be so stated. If my partner em-
ployed the electro-galvanic battery, it would be so stated
—and so every thing for which a charge would be made,
nothing else of any kind.

Q. Do these entries or any of them state the nature of
the disease or illness at the time of the attendance?

A. Very rarely—nothing that I recollect, but occasion-

3109 ally things which bring it to my mind. I will state an instance—introduction of the catheter, for example.

Q. What person or persons kept this record of account?

A. My partner and myself entered the charges every day. A pupil at that time with me entered them into the ledger.

Q. Are these original daily entries now in your possession?

A. They are in my possession in a book—they are in the City, at my house.

Q. Did you render annual accounts or bills to Mrs. Parish after the attack and receive payment?

A. I did regularly.

Q. Were these bills detailed statements, or merely in one line the sum charged for the year?

A. Merely in one line in the usual form of medical bills.

3110 Q. Did you ever render a bill to Mr. Parish before his illness?

A. Never; he did not allow me to do so by anticipating them.

Q. Did he ever tell you that you were a legatee in his will?

A. Never; nor did I, in the slightest degree, suspect it until the will was read.

Q. When was that?

A. Shortly after his death.

Q. Were you in the habit of paying a visit to Mr. Henry Parish on New Year's Day before his attack?

A. Regularly.

B. Did you, or not, visit him at Union Square on the New Year's Day next preceding his attack?

A. I have no doubt I did, because I never omitted it. I know I never omitted it, and therefore infer I was there on 3111 that day.

Q. Can you give no other, or fuller, or more distinct answer to the last question?

A. I cannot.

Q. Have you no recollection whatever of the fact that you visited Mr. Parish at Union Square on a New Year's Day before his attack?

A. I have none other than I have stated. Perhaps I had better explain. New Year's Day, with me, is a working-day like any other, and New Year's Day's visits are a very small incident of the day.

Q. Can you give no other, fuller, or more distinct answer to the last question?

A. I believe I have already answered the question dis-

tinotly, that there is nothing in my mind on the subject. 3112

Q. If you ever visited Mr. Parish at Union Square on a New Year's Day before his attack, can you say whether or not Mr. and Mrs. Parish received you, or other visitors in the same room?

A. I can give no additional information, but in speaking of New Year's Day's visits, I take it for granted that Mrs. Parish saw company, and not Mr. Parish.

Q. Have you any recollection whatever whether or not you ever saw Mr. Parish on a New Year's Day, prior to his attack, in the library of the Union Square House?

A. I have no such recollection.

Q. Prior to his attack how often were you in the habit of calling at the Union Square House?

A. Generally once a week, on Sunday evenings. 3113

Q. Have you any present recollection that you were ever there on a visit except on a Sunday evening prior to the attack?

A. I have no present recollection on that subject.

Q. On those Sunday evening visits did you meet ladies there, not inmates of the house?

A. A few occasionally.

Q. Please to name them.

A. Mrs. Daniel B. Fearing more frequently than any other; Mrs. Wm. Hudson, Mrs. Wm. Burns, when in town. I don't, at this moment, remember other ladies. There were not many ladies. These visits were, more than anything else, the continuance of an old habit of Mrs. Parish's brothers, transferred from my mother's house to Mrs. Parish's.

Q. Did you meet these three ladies frequently at the 3114 house on Sunday evening, during the period mentioned?

A. Not frequently.

Q. Can you say that within that period you met Mrs. Burns there once?

A. I cannot say that distinctly. It is more probable that must have occurred at some other times.

Q. Can you now remember that within that interval you met Mrs. William Hudson more than once at the house on a Sunday evening?

A. I cannot fix the times at all. I have an impression of meeting her there, and Mrs. Burns there.

Q. Do you not now think that this impression, as to meeting Mrs. Burns there, in that interval, was a mistake?

3115 A. I am doubtful, but cannot go so far as to say it was a mistake. Mrs. Burns was in Europe at sometime; I cannot fix these dates.

Q. Have you any present recollection of having seen Mrs. Burns at Union Square, prior to Mr. Parish's attack?

A. As I have already stated, I am in doubt on that subject. Question repeated.

A. My impression was merely one of having met her there about that time, but it is not distinct. I cannot say that I have any present recollection of having seen her there in that interval.

Q. Have you any present recollection of having seen Mrs. William Hudson in the house in Union Square more than once before Mr. Parish's attack?

A. I have not.

3116 Q. Have you any present recollection that you did see her even once there, prior to that attack?

A. My whole recollection is that I saw these ladies from a number of years ago, from time to time at Mr. Parish's house, and my impression and inference is that I saw them there at the period indicated, but I have no distinct recollection of that.

Question repeated.

A. I have no other recollection than as I have stated as an impression.

Question repeated.

A. I have no distinct recollection, but a mere impression which is equivalent to an indistinct recollection.

4117 Q. Do you occasionally visit otherwise than professionally, that is to say, socially, your friends?

A. Occasionally.

Q. Have you ever met Mrs. Daniel Parish, or any of her daughters, in other houses than her own, when they were visiting, professionally or otherwise?

A. Certainly.

Q. Did you ever in your life meet any member of the family of Daniel Parish, male or female, visiting on Sunday, either in the day or evening?

A. I recollect no such instance.

Q. Are you not aware that a large class of citizens in New York make it a rule not to visit on Sundays?

A. Perfectly so.

Q. Did not Mrs. Daniel Parish and her daughters, prior 3118 to Mr. Parish's attack, belong to that class?

A. I think that probable, but have no knowledge.

Q. Will you say that the occasion on which Mr. Parish received his friends in the Library was not as early as New Year's day of 1851?

A. I can fix no date to it.

Q. On the day you thus saw him in the Library, was there any one in the Library keeping him company, or taking care of him, as an attendant, or otherwise?

A. As I recollect seeing him there upon that occasion, no person was present with him.

Q. Did you see him on that occasion twice or only once?

A. I saw him twice, going up, and returning.

Q. Was any one with him, either time? 3119

A. I think not.

Q. Prior to his attack, you say Mrs. Parish was fond of society and of going to the opera and afterwards practiced entire seclusion. Was she not since the attack at one or more balls or parties at your house?

A. Yes, of late years.

Q. How many balls was she at, at your house since the attack?

A. At no ball.

Q. How many parties was she at, at your house since the attack?

A. My habit was to collect our family on thanksgiving nights, when she would be present, of late years—three or 3120 four times; the last three or four years of Mr. Parish's life. And she was at a supper party at my house in the course of this winter.

Q. Did she omit to attend your family thanksgiving parties for some years after the attack.

A. That is my impression.

Q. Do you now recollect the fact that she was absent from any one of them?

A. I have not the least doubt of it.

Question repeated.

A. I cannot recollect that on any fixed night she was absent; nor can I recollect any better a fixed night when she was present,

3121 Q. Can you now state as a fact within your recollection that at some one of the thanksgiving night assemblages at your house, though you may not be able to fix the particular one, that she was absent?

A. No. I cannot; I know generally that she refused in the earlier years to come to any entertainment at my house.

Q. In what month according to your best recollection was this supper party last winter, and about how large and general an assemblage was it?

A. I think it was in January, and a party of about 26 persons.

Q. Do you remember whether your brother was at it?

A. He was.

3122 Q. Are you not able to fix the date any nearer than it was in January, and are you sure it was in that month?

A. I am not able to fix it any nearer, and I am not sure it was in that month.

Q. Can you say it was not in the month of February?

A. I cannot be positive, but I think it was in January.

Q. Have you any written memoranda or minute from which that date could be fixed?

A. I have—the waiter's bill no doubt would fix it.

Q. Are you quite sure that your brother Henry was at it?

A. I feel nearly certain of that; I will say I am quite sure he was there.

Q. Are these thanksgiving meetings and the supper party mentioned, the only occasions when Mrs. Parish attended a party at your house since the attack and during the life of Mr. Parish?

A. I remember no other.

Q. Did not Mrs. Parish attend a ball at the house of Mrs. Ray last winter?

A. I believe so; but was not there, and did not see her there.

Q. Did not Mrs. Parish during the same winter attend a ball at the house of Mr. Lord?

A. I knew of no such thing.

Q. Had not Mrs. Parish a box or part of a box at the opera some winter since her husband's attack?

A. Yes.

Q. Did she not attend the opera since her husband's attack? **3124**

A. I presume so; but was never there myself, and knew nothing in the matter.

Q. Do you remember a great ball, commonly called the Poor ball, given at the opera house in the winter of 1854-5, and did not Mrs. Parish attend that ball?

A. I have some recollection of such a ball, but none at all that Mrs. Parish attended any such thing.

Q. Did not Mrs. Parish, during the period subsequent to Mr. Parish's attack, receive visitors calling at her house, as usual in respectable society?

A. No; she did not.

Q. Do you mean to say that, during the whole time, she did not receive the calls of her friends at the house in Union Square? **3125**

A. No; for I have stated that she saw company on certain New Year's days, and a few friends would call at our family meetings on Sunday evenings. As to the rest, Mr. Parish's habit was so constantly to drive out, his wife to accompany him every morning, that she could have seen little or no company.

Q. Do you mean to say that during the whole period, Mrs. Parish, when at home, and not riding out, declined to see her friends calling to visit?

A. I should say, generally not; but my knowledge, of course, as to who she saw, when I was not there, amounts to nothing. **3126**

Q. What do you mean by generally not, in your last answer? Do you mean that she generally declined to see her friends calling to visit her when she was at home?

A. I mean that, as far as I knew and believed, she did decline seeing ordinary visitors, but did see intimate friends.

Q. Can you name any instance occurring within your own observation when Mr. Parish was in and in his ordinary condition, after the attack, when Mrs. Parish declined to see a visitor?

A. I cannot, and had no means of knowing anything on that subject, other than the knowledge of her general habit obtained from conversation in the house.

(Mr. O'Connor objects to the last clause of this answer in time.)

3127 (Mr. Cutting insists upon its remaining.)

(Objection reserved.)

Q. You have stated that Mrs. Parish's health or spirits became impaired at some period; about what time was that?

A. During the last three years about, without pretending to be precise, of her husband's illness.

Q. How long did this state of depression, on her part, continue?

A. Mainly up to the present time.

Q. Did you ever advise her, in reference to that subject, to give up attending to business and the care of her husband's estate, or to commit that business and care to some

3128 other competent person or persons?

A. I did not.

Q. Might not a lady, giving her attention to purchases of stocks, securities, procuring notes and other investments of property to which she was previously unaccustomed, and meeting with occasional losses and reverses in such operations, induce or cause in her lowness of spirits and some depression of health?

A. So far from it, I should have expected the change in the current of thought induced by such occupations to have been useful; but, in fact, I was very little aware of what Mrs. Parish did in these respects.

Q. Would not such occupations and circumstances as are
1329 mentioned in the last question, have a tendency to divert the mind and attention from such amusements as balls, parties, and visits to the opera?

(Mr. Cutting objects to the question as irrelevant and as calling for opinion on matters as to which the witness is an expert. Question allowed.)

A. Not necessarily so.

Q. When did your brother John die?

A. Two years ago, I think, last October, about.

Q. When did your brother William die?

A. About a month afterwards.

Q. When did Mrs. Payne, the aunt of Mrs. Parish, who lived in the house adjoining Mr. Parish's residence on Union Square, die?

A. She died in June, 1854.

Q. Did not Mrs. Parish go into mourning for each of 3130 these three persons?

A. Certainly she did.

Q. For how long a period?

A. The usual period is a year.

Q. Mr. Parish had some partial seizures, you say, prior to his attack. How many were there, and what period of time did they cover?

A. I saw him after two or three, probably, had occurred, before he went to Europe, and I heard of one in Europe. That is all I remember.

Q. About what time was the first of these, and please to state its character and extent?

A. I think he went to Europe somewhere about 1842, and these seizures took place within the previous two years. 3131 One of the attacks I remember occurred when he was coming home and he was seized in the street, as described to me, with a degree of partial insensibility, which obliged him to sit down, and I think he required some aid to enable him to get home. There was another but I can't describe it distinctly, something of the same character, however. I was called in on both these occasions. One I remember and the other I take for granted. He was confined a very very short time, probably not more than a day. I can't recollect what I did as to the treatment, except what I take for granted I did from the nature of the case.

Q. Can you give an appropriate name or otherwise define the character of this seizure? 3132

A. It was of the nature of apoplexy but incomplete. The other I am not able to define, but it was something of the same character, no doubt.

Q. Did you advise his trip to Europe?

A. I did; but imagine that that was not the sole object of the visit with him.

Q. On his return did you learn from him that he had had any seizure or apoplectic attack, or symptoms, while abroad?

A. Not from him, but from his wife and my brother Henry, who accompanied them.

Q. Did you know or hear of any seizure, fit, attack, or apoplectic symptoms, occurring to Mr. Parish, after he moved into Union Square, and before the final attack of July, 1849?

3133 A. I remember no such thing.

Q. Do you not remember that in the year 1849, before the final attack, he had a seizure in the market, and had to be carried home?

A. Some such indistinct recollection does occur to me, but it is not clear; the mentioning of it brings it to my mind.

Q. Have you no recollection of any such occurrence?

A. No, I have no recollection.

Q. Who conveyed to you the message on the occasion of Mr. Parish's attack in Wall street?

A. I do not know.

Q. When he was brought to Union Square was Mrs. Parish there?

3134 A. She was not there.

Q. Were you there when she came?

A. I simply take that for granted, because I did not leave him for many hours. I have no distinct recollection of the circumstance.

Q. How soon after he was brought home was he provided with a regular nurse or attendant, and what was the name of the first one employed?

A. Within a few days. His name was James Fisher.

Q. About how long did Fisher continue to attend, and state, if you please, in order, according to your best recollection, the nurses or attendants down to the time of Mr. Parish's death?

A. James Fisher continued a number of months; that
3135 is as near as I can say. The names of the other nurses I have no recollection of, but they were changed from time to time until William Brown took charge of him, who was with him several years. I could not give the name of any other.

Q. How long before Mr. Parish's death, did Brown leave?

A. A year or thereabouts.

Q. Into what employment did Brown then go, and where is he now?

A. He continued to nurse gentlemen from time to time after leaving Mr. Parish, and that very fact makes me disposed to lengthen the period to eighteen months, from a

year to eighteen months; he must have left Mr. Parish before his death. Brown is now Superintendent of the New York Eye Infirmary.

Q. Is that the Institution mentioned in the second Codicil to which a bequest is made?

A. It is the same.

Q. When did Brown go into the employment of that institution?

A. Upon the opening of the institution about two months since, I ought to have said upon the opening of the new building and not the institution, the institution existed before, for thirty-six years.

Q. Do you hold any office or position in that institution?

A. I am one of the consulting surgeons; I hold no other position, except that, *ex officio*, a consulting surgeon is a Director.

Q. Who is the President of the Board of Directors?

A. I believe at this moment the office is vacant unless it were supplied at the last meeting when I was not present.

Q. Are you the only surviving founder of that institution?

A. Yes, sir.

Q. Who employed Brown, or recommended him to be employed in that institution.

A. As far as I know, his first application was made to Dr. Agnew, one of the surgeons; all else I knew about it was when Dr. Dubois another surgeon called upon me to inquire of his fitness for the office, I recommended him.

Q. What is the salary allowed that officer?

A. I know so little of the details of that institution at present, my office there being merely titular and little more, that I cannot answer precisely, but it does not exceed \$150 at the farthest, per annum.

Q. Do you mean that Brown, the Superintendent, gets for his services but \$150 per annum?

A. No; the salary I stated was but that.

Q. What other pay or emolument does he receive?

A. He receives the in-patients as boarders at \$3 a week I believe, and the only additional emolument is anything he can make from that source. The whole emolument from the institution is so indifferent, that I tried to dissuade

3139 him from accepting the office, thinking he could do better as a nurse where he was very admirable.

Q. From the time Fisher came until Mr. Parish's death had Mr. Parish always a man attending him as a nurse or attendant?

A. Always.

Q. Was it the rule for the nurse to be always with Mr. Parish, except when specially relieved for the purpose of going to his meals, or some necessary thing?

A. In making my visits, I generally found him there. I cannot recall an instance to mind, when I did not; beyond that I know nothing of my own observation.

Q. Had you not given a direction, or established a rule 3140 in that respect?

A. I imagine not.

Q. Did you know throughout the whole period what part of the house Mr. Parish slept in?

A. During four or five years in his own bed-room, on the third story of that building; afterwards, for a time when he could no longer walk up and down stairs, in his dining room, on the first story; and still later, a room under the conservatory, adjoining the building, was connected with the dining-room and made his bed-room, and there he died.

Q. According to your best recollection, how long was before his death that he began to sleep in the first story?

A. I don't know that I have any means of fixing it precisely, 3141 tively, eighteen months, possibly; I can come no nearer and that with no accuracy.

Q. What was it that rendered him unable, at this time to walk up stairs as he had previously done?

A. He walked with more difficulty.

Q. Can you not define the state of things at that point in this respect more precisely than that?

A. My impression is that the change was made some attack of convulsion more severe than usual. partly from unwillingness, I believe, to make the exertion and partly from diminished power. He had grown stouter, fuller, heavier, within this period, somewhat remissive, so, and that added to the difficulty of his getting up with his impaired motion.

Q. After he commenced sleeping down stairs on the first story, did he walk out ?

A. I cannot tell.

Q. Have you any recollection that his habit of walking out was at any time abandoned ?

A. I never saw him walk out in the City, and therefore cannot tell when the habit ceased.

Q. Before you went to the country, in August, 1849, had he been taken down stairs ?

A. I think not.

Q. How soon after your return was he taken down ?

A. I have no means of fixing the period, except generally that it was in the course of that autumn.

Q. Was it before the illness which eventuated in the slough coming from him ?

A. I cannot be any more accurate than I have been. I cannot say whether it was before that illness.

Q. Who was the nurse at the time of that illness ?

A. It must have been James Fisher.

Q. Have you no recollection of the fact beyond that mere inference that it must have been Fisher ?

A. It was James Fisher.

Q. How long, according to your present recollection, was that illness before the first slough appeared ?

A. Nearly a fortnight.

Q. By what means do you fix the date of the occurrence of that illness as you have done in your direct examination ?

A. By the entries in my books, more especially the use of the catheter, but particularly the greatly increased amount of attendance ?

Q. What is the first date at which you find the use of the catheter charged ?

A. I shall be obliged to refer to the book to answer that. I should say further, the remarkable nature of the case fixed it more accurately in my mind than the general run of symptoms.

Q. Did this illness cause you or your partner to remain in the house all night ?

A. Yes, Sir, repeatedly.

Q. Did those night attendances commence before the slough appeared ?

3145 A. Yes.

Q. About how long before ?

A. Within a few days after the attack.

Q. How did you fix the date of the attack—by reference to a single charge showing its commencement, or by reference to a number of charges scattered over a long time ?

A. By reference to a number of charges throughout the period.

Q. What length of time altogether did you take in the range of these charges, having reference to that illness ?

A. The greater part of the month of October.

Q. Did you take any charge before October, or within that range ?

3146 A. I think not.

Q. About how far had the month of October advanced before you took a charge, as falling within that range ?

A. I cannot be precise ; it was within two, three days of the first of October.

Q. Was there a considerable period next preceding during which you or your partner had not stayed the night in the house ?

A. I think so. I think during the month of September there could have been very little remaining at night. As to events I know his health was generally improving during that period, up to this severe attack.

Q. Before you went to the country in August, 3147 and your partner ceased to stay in the house with you the night ?

A. We must have ceased to stay with any regularity, but I cannot remember rightly on these points. I think that we stayed with him a number of nights after the attack, but I think we ceased to do so before I had been some days, and the time was short.

Q. Is it now your best recollection that from the time until the illness in October, that neither you nor your partner stayed over night in the house with him ?

A. I have no recollection that we did so in that manner, but I think it not improbable that any increase of symptoms or any greater anxiety, might have induced us to do so, but rarely.

Q. Then, as far as you can at present state, there may 3148 have been occasions along after your return from the country, through August and September, when one of you stayed in the house over night?

A. There may have been such occasions.

Q. If such occasions occurred, does it not indicate that on these occasions some particular alarm was felt?

A. Either some alarm or some symptom requiring attention.

Q. For about how many days, after the first attack, in July, did you apprehend danger of death?

A. My statements again would be not distinct recollections upon such a subject, but mere impressions as far as date is concerned, the exact day. The first time I can fix 3149 from any circumstance which enables me to date it, is when I left town, about the first of August. At that time I considered him no longer in any serious danger of death.

Q. Did you at any time in July or August say to Mr. Parish that you considered him in danger, or that you considered him no longer in danger?

A. I do not know whether I did or not.

Q. When first called in at the attack in July, did you bleed him from both temples?

A. From both temples by means of cupping-glasses.

Q. About what quantity of blood did you take from him?

A. I cannot tell. It was done by a cupper, not by me. 3150

Q. Was it not done in your presence?

A. It probably was—no doubt was. It may have been done by my partner, in an urgent case.

Q. Was it done in Wall street?

A. At his house.

Q. Have you no recollection of witnessing that operation yourself?

A. My recollection is not distinct of that particular fact; but I didn't leave him for hours, and must have witnessed it.

Q. When did he first utter the words "yes, or no?"

A. I cannot fix the time.

Q. Was it before you went to the country?

A. It was.

3151 Q. Did he before you went to the country utter both these words?

A. I believe so.

Q. Were they distinct and intelligible?

A. They were.

Q. Were they such sounds as any person of ordinary intelligence would suppose were "yes" and "no"?

A. They were.

Q. Did his ability to utter these words, or either of them, ever become less than at that time?

A. Not the ability, as far as I could judge; but at some period, late in life, I no longer remember his using them, a few months before his decease.

3152 Q. Do you mean to say that you did not discover a cessation in the use of these words until within the last year of his life?

A. Yes.

Q. Down to the time that this cessation was thus discovered, did his ability to use these words, as you have described it, existing in August, 1849, continue unimpaired?

A. That is my impression.

Q. Can you state what act of his, or what event or thing, drew your attention to the fact that he ceased to use these words?

A. I cannot.

3153 Q. Was there uniformly, when he used these words, an accompanying gesture?

A. Generally.

Q. Do you remember a single exception?

A. I do not.

Q. After you missed these words, or observed that he no longer used them, did you receive from him any gesture or motion which you constructed as "yes" and "no"?

A. I did.

Q. What were they?

A. The usual ones; a nod of the head, or one or more in one case; a shake of the head, or one, or more in the other case; but I always judged more by looking carefully at his countenance, or as much, rather, as in any other way.

Q. At any time during the first three or four years after attack did he, in giving what you took for assent or dis-

confine himself to simply shaking or nodding his head 3154
without giving any vocal sound?

A. I think he did so without a vocal sound, but by an inarticulate sound.

Q. Do you mean to say that during these three or four years, whilst he had the power of saying yes and no, he sometimes made the nod or shake, and instead of accompanying them with the appropriate word, uttered an inarticulate sound?

A. I so mean to say.

Q. Did you notice that at any time during this period he used the nod and shake of the head, as a pantomime without any sound whatever?

A. I am not sure of that. My recollection makes me 3155
think there was always or mostly, some little sound, something or other. I cannot by letters or otherwise, describe that sound. [The witness utters a guttural sound which the Surrogate cannot describe.]

Q. At any time before you went to the country in August, did Mr. Parish utter any other word, and if so state it?

A. I remember no other.

Q. Did he, before that time, utter any other articulate or inarticulate sound, which you can in any way describe?

A. I remember none.

Q. When first did you hear him utter "oh dear?"

A. Not for some months afterwards. I don't know when it began. 3156

Q. Was it before his illness of October?

A. I cannot remember that it was.

Q. Was it during that illness?

A. I can fix it no nearer; it was one of those things which came on without my paying much attention until it was frequently repeated. I do not remember any occurrence of it during that illness.

Q. Was this "oh dear," the first word or words that you heard him utter after "yes," and "no."

A. They were.

Q. Did they not strongly excite your attention when you first heard them?

A. I do not remember.

Q. For about how long a period do you remember those words, "oh, dear," being used by him?

3157 A. I think during the greater part of his entire illness down to his death.

Q. As far as you can remember did he continue to use these words, "oh, dear," down to the very time of his death, or if not, how near it?

A. Not until he died, and I cannot say when they ceased; I did not hear them very often myself, though I did hear them from time to time.

Q. How long before his death according to your best present recollection, did you hear these words, "oh, dear!" the last time?

A. I do not recollect.

Q. Did you hear them within one year before his death?

A. I think I did.

3158 Q. Did you first hear them as soon as within one year after his attack?

A. I think so, but am not certain.

Q. Name any person who was present at any time when he used that expression, "oh, dear."

A. I can name no individual instance, and consequently no person, but his nurses must have been familiar with it.

Q. Do you mean that you suppose all of them must have been familiar with it?

A. I do not know; I have already stated that I did not hear it often myself, but some one of his attendants would state to me that in the night perhaps, he had complained and said those words.

3159 Q. What attendant ever told you that he had used those words, "oh, dear?"

A. I have already stated I remember no particular instance and no particular attendant.

Q. Did you ever, at any time, hear Mr. Parish, after his attack, utter any other word than "yes," "no," and "oh, dear?"

A. I heard no others myself. The others I spoke of, on my direct examination, were reported to me.

(Mr. O'Connor now objects to the evidence of other words given by the witness on his direct examination on page 60 as follows, commencing with "and at one period during the first year," and ending with "they were not repeated." Decision reserved.)

Q. About how often did you hear those words "oh, dear" uttered by Mr. Parish?

A. I cannot remember.

3160

Q. Could you form any idea about how often in the course of a year you heard them?

A. It would be all guess work.

Q. Do you think that you heard them in every year from 1850 to 1854 inclusive?

A. I think I did.

Q. Is it your best recollection that you heard him utter them a number of times in each of these years?

A. That is my best recollection.

Q. Besides the inarticulate sound mentioned by you to-day, and the sound "nyeh," which you mentioned on your direct examination, did he utter in your hearing any other inarticulate sounds?

3161

A. Yes, there were.

Q. Please to describe each of them which you recollect?

A. I do not know how to describe inarticulate sounds. If he was irritated, there would be sounds of some kind denoting irritation; if he was in pain, he would moan a great deal and groan.

Q. Besides moaning and groaning in pain, and the two inarticulate sounds last referred to, did he utter any other sounds?

A. There were various sounds, at different times, which I paid no attention to, and which left no impression on my mind.

Q. Do you mean to say that, besides the moaning and groaning and the two inarticulate sounds last before mentioned, Mr. Parish uttered in your hearing no sound that you can now, from recollection, give any account or description of?

A. There were other sounds if I could bring them. If I would say some thing he would be in doubt about, he would shake his finger at me and make a sound, looking at me inquiringly, but I do not know how to describe the sound.

Q. Was that sound which you have just mentioned a habitual one with him?

A. Not habitual, occasional. The occasion didn't often happen.

Q. Did you notice that this same sound was occasionally repeated, or was the sound to which you have last referred different at different times?

3163 A. Well, I attached not much importance to these sounds, it was by the expression and manner accompanying these sounds that I judged of his meaning. As far as I recollect, the sound inquired of was always the same.

Q. Could you by letters or other description, convey any idea, even proximately, of this sound?

A. I could not.

Q. You have now spoken of three different inarticulate sounds uttered by Mr. Parish, besides moaning and groaning, do you remember ever hearing him utter any other after his attack.

A. I cannot, at this moment, remember any other.

Q. You have mentioned the gesture of nodding and shaking the head; can you state any other gesture or gestures that Mr. Parish used after his attack. If so, state all of them, giving of each the best description in your power?

A. He often held his hand with the fingers closed, making a hollow, moving it, looking at it as if he meant something, holding it up towards his face, just in front of his breast and partly to the individual he was talking to, looking at it and then at the individual who was talking to him, as if to call attention. There was another gesture. He often put his fingers in his mouth, pressed upon the lower teeth, the back of the hand upwards. I can't call to mind any others just now. I might think of more if I had time. I cannot call any other to mind; if I should stay the afternoon I could not.

3165 Q. Did any sound accompany the first of these gestures described by you?

A. Some times a little guttural sound.

Q. Do you mean that sound you said you could not imitate?

A. No. I do not attach any distinct idea to this guttural sound at this moment. It was some little noise in the throat.

Q. Did any sound accompany that second gesture?

A. No sound accompanied that.

Q. Were these two gestures habitual with Mr. Parish during his illness?

A. They were habitual during the latter years of his illness.

Q. Did you judge while attending Mr. Parish that his

organs of speech were affected by his apoplectic disease? 3166

A. The appoplectic attack left this consequence behind it along with the hemiplegia.

Q. Can you give no more full and distinct answer to the last question?

A. I think it covers the whole ground—I intended it to.

Q. You have spoken on your direct examination of Mr. Parish's chronic disease—what was his chronic disease?

A. I don't remember what you refer to. The whole state in which he was left by his first attack was chronic, if that is what you refer to.

Q. Did you judge, while attending Mr. Parish, that the nerves or any and which of them connected with or giving motions to the organs of speech, were affected by that chronic disease? 3167

A. All the organs connected with speech were originally affected by the apoplectic attack and so continued throughout the chronic disease.

Q. Please to describe in what way and to what extent in your judgment, the organs of speech and each of them were affected by the apoplectic attack?

A. The whole subject is an abstruse and difficult one and I would be obliged to refer to authors to answer the question.

Q. When you heard Mr. Parish say, "Oh! dear," did he utter it only once at a time, or utter it repeatedly and for some continuance of time? 3168

A. Two or three times upon each occasion.

Q. Do you mean two or three times successively and continuously?

A. I so mean.

Q. When he uttered the sound, "nyeh," did he utter repeatedly and successively, the same way, a number of times?

A. He did so, as a general rule.

Q. You have spoken of all the organs of speech as being affected, please to state what were the organs of speech, naming each in detail and stating the way in which you judged it to be affected by his apoplectic attack?

A. I cannot now recollect enough of my anatomy and physiology to go into this detail.

Q. If you can now name any of the organs of speech and

3169 describe how in this case you judged such organ or organs to be affected, do so.

A. The wind-pipe, its upper part called the glottis—certain cartilages, chords and membranes in the upper part, are probably the principal seat of the voice, and its modulations are produced by the tongue, the teeth, the lips, and the mouth generally. All these parts are supplied with nerves coming from the brain, and this is the point of minute anatomy I do not remember, what nerves supply these various parts. They all come from the brain, and when they are affected, we infer that the part of the brain whence they are derived is in some way implicated in the disease.

Q. Do you mean to say that you judged those nerves to 3170 be affected by the apoplectic attack in Mr. Parish's case?

A. I now so judge, but the question being of no importance in a practical point of view, I did not enter into such details of anatomy and physiology at the time.

Q. Which one of the organs of speech which you have named, if any, did you discover or judge to be in whole or in part paralysed?

A. Nothing in such cases can be discovered in the parts themselves.

Q. Then why did you say that all the organs of speech were affected by the apoplectic attack?

A. For the simple reason that he could not speak.

Q. Did you ever perceive that his hemiplegia or chronic 3171 disease affected any other part of his body except simply the right leg and the right arm, and that he did not speak?

A. The right side of the face was slightly affected, less than usual, but this almost entirely disappeared in the course of his recovery.

Q. About what time did this affection of the face entirely disappear?

A. So quickly, that in about three months, I think, possibly even less, an ordinary observer would not have noticed it. The time fixed is at hazard, not intended to be accurate.

Q. Describe as well as you can the way in which the right side of his face was affected.

A. The muscles of that side of the face looked slightly fallen, and those of the other side slightly drawn; but the whole of it was slight.

Q. Did these appearances of the face wholly disappear 3172 within the first six months after the attack ?

A. Never wholly in the absolute sense, but so that it required careful examination to discover it, and it was more discoverable by the slight escape of saliva from one corner of the mouth, showing a want of power there, than by any other circumstance.

Q. When did that escape of saliva first appear, and did it ever, and when wholly, cease ?

A. It was so slight as not much to attract my attention, and I noticed it more in the latter period, but it must have existed, I judge it must have existed, throughout the whole case.

Q. During the last three years was it less or more, than 3173 previously ?

A. There was no material difference, I imagined ; as I have observed repeatedly, it was very trivial, so that I did not often notice it or pay attention to it.

Q. Were you present in Mr. Parish's sick room when Mr. Lord was there, and a paper was executed, as you have mentioned on your direct examination ?

A. I have reason to believe I was present. I know that I was in the house, but I have no distinct recollection that I was in the room.

Q. Were you ever there when Mr. Lord was there, and any other paper was executed ?

A. I was not.

Q. Did you ever know before Mr. Parish's death that any 3174 other codicil to his will had been made, except that paper mentioned in your direct examination ?

A. I knew nothing except from hearsay ; of the last nothing at all ; of the second, I heard merely.

Q. Did you ever see the will of Mr. Parish before his death ?

A. I never saw it.

Q. Did you at any time prior to the day that Mr. Lord was there in the summer of 1849, hear that Mr. Parish's will was in the house ?

A. I did not.

Q. Had you any conversation with Mr. Lord about the

3175 condition of Mr. Parish, on or before the day in the summer of 1849, when he was there, and the paper was executed?

A. I do not remember any.

Q. How soon after his attack was your attention drawn to the question whether Mr. Parish's sight was affected?

A. I had no doubt it was immediately, as soon as he recovered sufficiently to make any inquiries upon that subject.

Q. How soon, according to your recollection, did you make any experiments on that subject?

A. I made no experiments for a long time, but that I ascertained the fact that he saw almost immediately after the attack, I have not the least doubt, or in other words, I 3176 remember no doubt at any time about his sight.

Q. You have said that he complained of his eyes; in what way, by what word, sound, or gesture did he complain?

A. That was always very distinct by his pointing to his eyes, raising his spectacles, and fixing himself in a condition for me to examine his eye. That was constantly done. When I would tell him that there was nothing to be seen amiss in his eye, different from what there had been previously, he would shake his head, and show evidently he was not satisfied with that view of his case; and then again he made the motion in relation to motes, which I have 3177 mentioned in my direct examination.

Q. When did he first make any of these references to his eyes?

A. I never could fix the time for any of these things. I can't now do more than I did on my direct-examination.

Q. Can you give no idea whether it was within one, two three years after his attack that he first did so?

A. From one to two years.

EDWD. DELAFIELD.

Subscribed and sworn before }
me, June 25, 1856.

A. W. BRADFORD,
Surrogate.

Exhibit No. 67.

3178

I do hereby certify that Henry Parish and Susan Maria Delafield were joined by me in the bonds of holy matrimony, according to the rites of the Protestant Episcopal Church, in the United States of America, on the 7th of October, 1829, in the city of New York.

WM. BERRIAN,
Rector of Trinity Church,
New York.

New York,
June 24th, 1856.

(Marked) No. 67. A. W. B.

Exhibit No. 68.

I do hereby certify that the baptism of Susan Maria, daughter of John and Ann Delafield, on the 6th of June, 1806, born Feb. 25th, 1805, is recorded in the Parish register of Trinity Church, New York.

WM. BERRIAN
Rector of Trinity Church,
New York.

New York,
June 24th, 1856.

(Marked) No. 68. A. W. B.

1

June 26, 1856. 3179

Parties present.

Edward Delafield, being further cross-examined, says—

Q. How long was your attendance on Jacob Parish, when his eyes were under your charge at Henry Parish's house?

A. I have no distinct recollection as to the time, but simply infer from the nature of the case that it may have been a month or more.

Q. Have you any recollection of having seen Daniel Parish or any of his family at the house of Henry Parish during any part of such attendance? 3180

A. The case goes too far back for me to have any recollection on such subjects as that; I have no recollection.

Q. What interval elapsed according to your best present recollection, between the operation upon his eyes and that upon Henry's?

A. I cannot recollect; I should be obliged to begin to make calculations, which would give me no positive knowledge.

Q. Was that attendance the subject of a charge against anybody in your books?

A. I cannot say, but I certainly was paid for the service by somebody; I do not recollect by whom.

Q. Do you now recollect distinctly at what time or place, 3181 that attendance was made?

A. I believe it to have taken place at Mr. Henry Parish's house in Barclay street.

Q. Did Mr. Parish sit up before you went out of town to the country in August, 1849?

A. I cannot fix that time, whether it was before or just as I returned, that he sat up?

Q. What is your best recollection on that point?

A. I can remember no nearer.

Q. Are there any means of fixing the precise day of your return from the country?

A. My daybook would show it from the entries beginning to be in my writing.

3182 Q. Do you remember whether or not he sat up the first day you saw him after your return?

A. I do not.

Q. Can you say that he sat up within a week after your return, from your own recollection?

A. I cannot.

Q. Was he or not taken down stairs before the illness of October?

A. I do not know; but think it probable.

Q. Do you remember in what way he was first taken down stairs?

A. He was brought down in a chair.

Q. Did this require the aid of more than one person, and who performed it?

3183 A. Certainly two persons; there were three men in the house, the coachman, the waiter, and the nurse.

Q. After the process of taking him down in the chair commenced, how long was it continued?

A. I have no means of fixing any of the dates. I simply remember that in the course of the autumn or early winter, he got down stairs without being carried.

Q. Have you any recollection that he got down stairs without being carried, before the October illness?

A. I have not.

Q. You have spoken of a room in the third story, adjoining Mr. Parish's sick-room; was not that room occupied both as a dining and sitting-room, at some period, and when?

3184 A. I have no recollection of its being occupied as a dining-room; it was occupied as a sitting-room until Mr. Parish came habitually down stairs, beginning at the time of the attack, in July.

Q. Did this room communicate directly with Mr. Parish's bed-room.

A. Indirectly through a dressing-room. I will explain: There were three rooms in suite, communicating with Mr. Parish's bed-room; the front and large room was used to receive persons not of the family; the two smaller rooms or dressing rooms were used indiscriminately by those of the family.

Q. Did each of these three rooms communicate directly with Mr. Parish's bed-room?

A. No; the passage from the front room was through 3185 to the other two; only one of them communicated directly with his bed-room.

Q. Which of the three is the one you have said Mrs. Parish used to sit in?

A. Mrs. Parish was in one of the two dressing-rooms; sometimes one, sometimes the other.

Q. Did she not during this period sit with the other members of the family, in that room?

A. Not habitually in that sense; only when they happened to be up stairs.

Q. Who constituted the family residing in the house at that time?

A. My brothers Henry and William, with Mr. and Mrs. 3186 Parish.

Q. When in the house and not engaged in some special occupation, was not their sitting-room the same as Mrs. Parish's?

A. Not at that time.

Q. Where did they sit?

A. In the library below.

Q. Does this answer extend over the whole time, until Mr. Parish began habitually to go down stairs?

A. It does.

Q. Was not the door between the room in which Mrs. Parish sat and Mr. Parish's bed-room usually kept open during this period. 3187

A. I simply presumed so; I have no recollection.

Q. At about what period did Mr. Parish begin to ride out?

A. Sometime between his attack in October, and the beginning of the next year.

Q. Is it your recollection, that he rode out before 1850?

A. It is not.

Q. How early in 1850 did he ride out, according to your best recollection?

A. I do not recollect at all, except it was about that time.

Q. Then you say he rode out before the summer of 1850?

A. I have no doubt of that.

Q. Can you come no nearer to the time of his beginning

3188 to ride out than as stated in your last two or three answers?

A. I cannot.

Q. Was this practice of riding out ever afterwards discontinued?

A. At short intervals, after severe attacks of convulsion, cholera-morbus, or inflammation of the lungs, and again, some weeks before his death.

Q. About how long prior to his death, according to your best present recollection, did he cease to ride out?

A. I was not present when he set off for his rides, and the only information I can give would be from hearsay.

Q. From whom and about what time did you hear about his setting off upon his last ride?

A. I cannot fix any time, but I feel quite assured he did
3189 not ride for six or eight weeks.

Q. Is it your best recollection as to time that his practice as to riding out continued until within a couple of months from his death?

A. It did so, but at longer intervals than those before; it was occasional during the last winter of his life.

Q. With the exception of short periods after the attacks you have referred to down to the time mentioned, was his habit of riding out daily very constant?

A. It was so.

Q. How long prior to his death was there a diminution in the steadiness of his habit?

A. During the whole winter preceding his death.

Q. At the time this diminution took place and at the
3190 time the total discontinuance took place, were you informed of these facts by any one?

A. I learned them in conversation with Mrs. Parish at my visits, about the times they occurred.

Q. What was the immediate cause of Mr. Parish's death?

A. The immediate symptom was difficulty of breathing, and impaired power in the lungs. This began slightly several weeks before his death and gradually increased up to an hour or two of his decease.

Q. Did any other symptom of approaching dissolution or failing health accompany this?

A. General loss of strength and failure of appetite.

Q. Any other?

A. There were occasional other symptoms ; for instance, 3191
I think the night before his death he suffered terribly with
irritation of the bladder. The word strangury describes
it. I believe there were no other symptoms.

Q. What was the first of these symptoms which ap-
peared ?

A. Failure in strength, and loss of appetite.

Q. Do you mean to say that these appeared at the same
time, or to give one of them the preference ?

A. At the same ; and about six or eight weeks before
his death.

Q. Down to within twenty-four hours of his death, were
the symptoms confined to the difficulty in the lungs, and
the loss of appetite and strength ? 3192

A. They were.

Q. When did you first become apprehensive that his
dissolution was near at hand, or that he was rapidly pro-
gressing to his end ?

A. I think not more than a week before his death.

Q. What then occurred to create that impression ?

A. Only the gradually increasing trouble about his
lungs, not at a definite period, gradually increasing.

Q. Did you, during this latter period of six or eight
weeks, communicate to Mrs. Parish your apprehensions
that he would shortly die ?

A. I think not, until within the last week.

Q. During the winter preceding, what causes, as far as 3193
you knew or could observe, or learn from Mrs. Parish, led
to the diminished frequency of his riding out ?

A. He was more heavy, more dull, more inclined to
sleep, less inclined to move.

Q. Was there no other cause ?

A. Less strength, that I believe covers it all.

Q. Can you state from the same sources, what was the
cause of the total cessation of riding ?

A. An increased degree of the same symptoms, with the
add itional one I have spoken of as having commenced at
the time, indicated loss of strength and failure of appetite.

Q. With all these symptoms progressing as they did, do
you mean to be understood that no apprehensions of his ap-
proaching dissolution were felt by you, until within a week
of his death ?

3194 A. No apprehensions of any rapid change. I felt, myself, earlier apprehensions, but did not communicate them, that he would not live any great length of time.

Q. How early did this apprehension impress itself upon your mind?

A. Within two or three weeks of his death, without pretending to be precise about it.

Q. Is it your best present recollection that your apprehensions that he would not live any considerable length of time first arose as late as twenty-one days before his death?

A. Yes—with the modification already stated that I will not be precise.

Q. You have stated that Mr. Parish used crutches or a crutch—about how early did that practice commence?

3195 A. Sometime in the course of the first winter after the attack—I think when he first came down stairs without being carried, he aided himself with a crutch.

Q. Was that practice continued till the year 1856?

A. I think it was.

Q. You have stated that he walked at some period without the aid of any person; when was that and over what length of time did it continue?

A. It occurred about three or four years after the attack and continued a short time only—well, two or three weeks to the best of my knowledge, it is mere haphazard.

Q. Have you any impression whatever that such a practice continued more than a month?

3196 A. I cannot state it any more accurately—I cannot remember.

Q. Did you ever see him walk without the aid of any other person, with a crutch?

A. Yes.

Q. When and where was that?

A. I can bring up such a scene in his library about the period already stated—some uncertain period—three or four years.

Q. Did you ever see him thus walk in other places than the library?

A. I think I did at Hell Gate, but I am not certain—I do not remember any other place.

Q. Did you see him thus walk in his library more than once?

A. That is all I remember.

3197

Q. Had he any other aid at that time except the crutch?

A. I have seen him occasionally, I don't know how often, walk with a crutch, and put his hand occasionally upon a table or some such article—on the occasion I have referred to in the library he had no aid but the crutch.

Q. Can you name any other person who was present on that occasion in the library?

A. I cannot.

Q. Can you say whether it was in summer or winter?

A. Only from the fact of its being in the library in Union Square, it must have been not in the summer.

Q. How often did you see him walk with a crutch and no aid from any person at Hellgate?

A. I cannot tell.

3198

Q. Do you recollect of having seen him so walk more than once at Hellgate.

A. My impression is that I occasionally, several times, saw him rise with his crutch, and his hand on some other object, and walk a short distance.

Q. About what length do you mean a short distance?

A. Eight or ten feet, not pretending to be accurate, some such distance.

Q. Did you ever see him walk with the crutch and no aid from any other person or thing at Hellgate?

A. I did not.

Q. Do you mean to say that you do not recollect having seen him walk anywhere with a crutch and without the aid of any person or thing, except once, and that in the library in Union Square?

3199

A. I so confine it, because that particular picture is in my mind, and how often it occurred it is impossible for me to say, and therefore I fix it at one.

Q. Is not that picture in your mind, to which you have just referred, a picture which might readily be produced by what some one else had told you he or she had seen?

A. No.

Q. Have you any present recollection of having seen such an occurrence more than once?

A. I have not.

Q. About how far did Mr. Parish walk on that occasion?

3200 A. I cannot tell, a short distance in the library, from one chair to another, something like that, perhaps from six to ten feet.

Q. You say that you saw him walk occasionally without the aid of any other person, employing the crutch and some article of furniture and such like thing—about how often did you see that according to your best recollection?

A. I can fix no number of times—several times.

Q. Were these occasions, last mentioned, within the period you have spoken of as being, perhaps, two or three weeks, or were they spread over a long period?

A. Probably a longer period than two or three weeks, from remembering it in town and in the country. I can
3201 answer no nearer as to over what length of time they probably extended.

Q. When he used a crutch, please to describe how he employed it?

A. He used it under the left arm, the sound arm, guided by that arm and hand—a servant standing on the same side, his wife on the other, lifting his foot in the manner I have once described; this was the earlier mode of doing it. At a later period, he would go only with one person, on which side I will not pretend to say.

Q. Did you ever see him use the crutch otherwise, whether he had the aid of another person or not, than by putting it under his left shoulder and guiding or holding it
3202 with his left hand?

A. Never.

Q. When he moved about with the aid of his crutch and also the aid of some piece of furniture, or such thing, and without the aid of any person, how did he derive aid from the piece of furniture?

A. By leaning against it; and there was also a period, which I have already stated, when he had a little power of the paralysed hand.

Q. Do you mean to say that on any of the occasions referred to in the last question, he placed his right hand on the articles of furniture, and thus derived aid or support from them?

A. I am not clear about that. He supported himself by the furniture or whatever articles it was, in some way;

that, I know, but whether by his elbow or how, I do not mean to say. He then had a good deal of power in the right leg.

Q. Have you any recollection that in this moving without any person, he ever derived any aid from any article by his right hand or arm in any way ?

A. Not from recollection, but he must have done so. I did not examine the thing carefully to see what muscles he used at the time.

Q. You have mentioned that Mr. Parish wept sometimes. At how early a period of his illness did you discover that ?

A. Very early, is my impression ; as soon as he began to see his old friends. Say during the first winter after he was attacked.

Q. Did you observe it any time before the illness of October ?

A. I do not remember.

Q. How long did this practice continue ?

A. More or less throughout his illness ; not so frequently later as earlier in the disease.

Q. Can you mention any other apparent occasions of his weeping, than his seeing old friends ?

A. I cannot.

Q. Did you, to your present recollection, see any person in his sick room, except Mrs. Parish, the physicians and attendants, prior to his recovery from that illness of October ?

A. I remember none.

Q. Can you recall to memory the first occasion of this new symptom, the shedding of tears ?

(Mr. Cutting objects to the inquiry, as assuming weeping to be a new symptom.)

A. I cannot.

Q. On what occasion did you see him weep at the meeting of an old friend, and who was that friend ?

A. It was a common thing. I have seen it distinctly a number of times, but can mention no names.

Q. If you ever did see him weep at meeting an old friend, did you know it to be the first meeting of such friend subsequent to his attack ?

3206 A. I knew it as far as I can judge by being so told at the time?

Q. Did you never see him weep when no person but his attendant, yourself, and some of the family were present?

A. I remember no such occurrence.

Q. Prior to his illness you tried to control his appetite; did you do so in any other way than simply by addressing him?

A. Certainly not.

Q. In what way was his health affected prior to the attack, by his over indulgence in this respect?

A. It endangered the recurrence of the apoplectic seizure that he previously had.

3207 Q. By what immediate evidences, warnings, or occurrence, did that danger manifest itself?

A. By the fact of his having had these attacks.

Q. Had he any such apoplectic seizures after his return from Europe in 1844, and before his final attack in 1849?

A. I do not remember them if he had.

Q. Did you intend, in speaking of his appetite, and your efforts or advice to restrain it, to refer to the last mentioned period?

A. Yes, that as well as the previous one.

Q. During that period did you, by advice or otherwise attempt to restrain his appetite?

3208 A. I did, whenever an opportunity occurred, in consequence of slight indispositions, for which I would prescribe from time to time.

Q. Can you state what was the nature of these slight indispositions?

A. I cannot distinctly.

Q. Were they in the nature of what is called vertigo, determination of the blood to the head, and like symptoms?

A. I think it probable, but I don't recollect. So far as I remember, more of the symptoms were those of some form of indigestion which always endangered his brain.

Q. Shortly after his return from Europe were you informed by Mrs. Parish of his illness at Baden-Baden?

A. I soon learned it from some source, no doubt from 3209 Mrs. Parish.

Q. Please to describe that illness as you were advised of it at that time?

A. I do not remember the details, but that he had an attack like apoplexy, so as to be unconscious for a short time. I knew nothing more.

Q. Were you informed at that time whether it continued several days?

A. I do not remember.

Q. From the statement, was it a dangerous or serious attack?

A. I judged it to be serious, dangerous and more severe, than anything he previously had. 3210

Q. Had you never any conversation with Mr. Parish on that subject?

A. I think not. He avoided it.

Q. Did you ever attempt to bring on any conversation with him about it?

A. I cannot say.

Q. How then do you know that he avoided it?

A. I may have attained the idea from his wife that he wished to avoid it.

Q. Have you any personal knowledge that he avoided it, or wished to avoid it?

A. I have that impression—that that prevented my speaking to him on the subject (Mr. O'Connor objects to the answer as not responsive). 3211

Q. After the attack, how soon did Mr. Parish's appetite appear with any strength?

A. I do not remember.

Q. Generally through his illness, and down to the last winter, was his appetite good and strong?

A. It was.

Q. When did any difficulty in his urinary evacuations first appear?

A. In October I remember distinctly when he was so ill, whether earlier than that I can't call to mind.

Q. After that period did such difficulty continue, and how long, and to what extent?

A. It recurred from time to time. I do not remember

3212 his being much troubled with it till the latter years of his case.

Q. Was he troubled with difficulties of that kind in 1850?

A. They probably had subsided by then.

Q. What was the character, and what were the variations of his complaint in this respect?

A. Originally he had retention of urine. In process of time there was a difficulty in holding the water. These are the varieties.

Q. Did these alternate, or how otherwise?

A. No, not alternate; I think retention may have occurred during the course of his disease at some other time, but am not certain; I know that he had sometimes exceeding difficulty requiring great efforts and painful ones to

3213 empty the bladder.

Q. At how early a stage did the difficulty of retaining the urine occur?

A. I think the difficulty absolutely of retaining it began in the later years of his case, say the last two or three years; the bladder was more or less irritable throughout the whole case, that is, his wish to perform that function was more frequent than natural.

Q. In what way did this irritability of the bladder manifest itself?

A. By a frequent wish to empty it.

Q. When what you call the difficulty of absolutely retaining the urine occurred, did it continue steadily, or did

3214 he recover from it from time to time?

A. He recovered from it from time to time.

Q. Was the difficulty of frequent recurrence after it first appeared?

A. It was.

Q. Was the discharge at any time bloody?

A. I think so; it was not frequent; I cannot fix any special time when it occurred.

Q. Was that the case during the October illness?

A. I do not remember whether it was or not.

Q. You have stated that the sphincter muscles were affected during his illness, when did that first appear?

A. That is the matter of which we have been talking for sometime past.

Q. When did the disturbance of his rectum of which you

have spoken first appear? Go on, and state its progress. 3215

A. At the onset of the disease upon the first attack, whether from a diarrhoea or from a loss of power I cannot tell, but I know for two or three days he was troubled in that way; he recovered from that, and I remember no trouble in that respect for several years after.

Q. After these difficulties in retaining the urine occurred, what was the effect on Mr. Parish? Did he fail to retain his urine frequently, so that it passed from him when he was not at the closet or stool?

A. He did, if not attended to in time.

Q. Either at the time of his October illness, or at any other time, did you subject his urine to any chemical or other investigation?

A. I remember no such investigation.

3216

Q. When, according to your best recollection, did the spasms or convulsions first occur?

A. Late in the autumn or early in the winter after the first attack, probably in the month of November, 1849.

Q. Are you sure that they did not occur prior to the October illness?

A. I am sure.

Q. From the time of their occurrence down to, say 1st January, 1851, about how frequently did they occur?

A. At first, in from eight or ten days to three weeks, gradually diminishing to about once a month.

Q. During the next year, say 1851, did the intervals become longer?

A. They did somewhat.

3217

Q. Did they gradually continue to become longer to the end of his life, or was there any variation in this respect?

A. Gradually, but not regularly.

Q. From the 1st of January, 1852, to the 1st of January, 1856, what number of recurrences, according to your best recollection, took place?

A. I cannot state the number. In 1852, they occurred about once in four or six weeks, and I can merely say they gradually diminished, so that, at last, six months, and I think a year or nearly that intervened; at all events, six months.

Q. Do you remember whether he had one of these convulsions in 1856?

3218 A. I remember none in that time.

Q. In 1855, had he any?

A. I cannot be so accurate as to that; there was some period thereabouts of long intervals.

Q. Do you now recollect that there was a single recurrence of convulsions in the year 1855?

A. I do not; they may have occurred without my being sent for.

Q. I will take a period from 1st January, 1853, to 1st January, 1855, being two years, and ask whether, as far as you know, he had as many as five spasms or convulsions within that time?

A. I have little doubt he had.

3219 Q. Can you say, in your recollection, that either from your own knowledge or Mrs. Parish's report to you at the time, he had as many as five spasms?

A. My recollection helps me very little in the matter, except the general fact that I have already stated.

Q. During that period, were not the recurrences of convulsions very rare and very far between?

A. They were, in 1854, decidedly; and very much diminishing, no doubt, in 1853.

Q. You have said that you never saw a commencement of these spasms. Did you ever see Mr. Parish during the continuance of the convulsions?

3220 A. The convulsion proper would pass in a few minutes; certain convulsive actions, consequent upon it, would last some hours, which I would see.

Q. Please to state how the paroxysms came on, giving all the symptoms as they were reported to you at the time by the attendant?

A. They would commonly come on suddenly, there would be some sudden noise in his throat, sometimes resembling a shriek or scream, his face would redden violently, the whole body would be convulsed, and if not supported he would sink down.

Q. Did you understand that his body or limbs became rigid?

A. The convulsed muscles became alternately rigid and relaxed.

Q. What was this convulsive action, lasting for several hours, which you witnessed?

A. I would find him lying on a couch in a state approach- 3221
ing insensibility, sometimes absolutely insensible, with the
paralysed limb most commonly twitching, jerking—both
legs did so more or less, the paralyzed one the most so.

Q. Were these spasms preceded for any sensible length
of time by what might be called premonitory symptoms,
which persons about him would naturally become acquainted
with?

A. As reported to me, he was always much more irrita-
ble and generally uncomfortable before a paroxysm.

Q. Did you yourself see him in one of these conditions
last described when you or the others present supposed a
paroxysm to be approaching or near at hand?

A. I did so, but got the information mainly by in-
quiry. 3222

Q. Did you at that time remain with him in order to see
the paroxysm and ascertain the precise way in which he was
attacked?

A. No, this condition was for some preceding days.

Q. Was there any unpleasant or dangerous action of the
jaws and teeth connected with these paroxysms?

A. Injury to the tongue by the teeth arising from the
convulsive action of the jaw, unless provided against by in-
serting some substance between the teeth, for which I sug-
gested a piece of soft wood to be always at hand to be
placed between the teeth.

Q. Was this what you call a nervous disease?

A. It is commonly classed as a nervous disease. 3223

Q. From what nervous centre is that disease supposed to
result?

A. The brain.

Q. Did you consider these convulsions to be connected
with the general apoplectic disease of Mr. Parish?

A. It would be more proper to say they were connected
with the condition of the brain left by the apoplectic at-
tack.

Q. Were these convulsions of greater or less violence at
their recurrences after long intervals than when they oc-
curred frequently?

A. I think generally not greater. There was no mate-
rial difference.

8224 Q. You have mentioned one recurrence of them in the carriage, do you know or did you hear of any other recurrence of them when Mr. Parish was out?

A. I do not remember any other.

Q. According to the best of your recollection, in what year was that?

A. I have no means of stating—it was not very early, not very late, in his illness—probably the two middle years might include the period, say 1852 and 1853.

Q. What time of the day was that occurrence, or at what hour were you called in?

A. About the middle of the day.

Q. Was it on that occasion you saw Mr. Daniel Parish
3225 at Union Square?

A. I do not know.

Q. Was not the occasion of the recurrence of these convulsions when you sent for Mr. Daniel Parish, the 26th of February, 1850.

A. I do not know—probably that may appear on my books—I cannot say.

Q. What would there probably be on your books that might indicate that occurrence.

A. An increased number of visits, or remaining in attendance such a time, perhaps remaining all night, or something of that kind.

Q. Is it your recollection that you did stay the whole or
3226 part of a night, and give a long attendance at the time you sent for Daniel Parish?

A. That I stayed some hours, I remember. Beyond that I do not remember.

Q. Was it your practice in charging visits, to indicate the length of the visit, when it was beyond the common length?

A. It was, if much protracted; say beyond an hour. The common length of a visit varies from ten to thirty minutes.

Q. Can you form any idea or give any recollection as to the year or the time that occurrence took place?

A. No; I can state it no nearer.

Q. Will you be so good as to state the medical name, and give the proper medical scientific description of these spasms?

A. They would be called simply convulsions, whether epileptic or not would give rise to difference of opinion. 3227

Q. Except yourself and your partner, Dr. Markoe, was any other medical man ever called in or consulted with, in reference to these spasms?

A. I remember no other.

Q. Would you be likely to have forgotten such an occurrence?

A. Oh, no.

Q. Besides the illness of October, these spasms, and the occasional necessity of an application for the discharge of the urine, do you remember any other particular illness Mr. Parish had after the attack and before January 1st, 1856?

3228

A. He had more than one attack of cholera-morbus, at least one severe attack of choleric, which continued several days, several attacks of inflammation of the lungs, and the formation of a large abscess beneath the angle of the jaw. These were the only serious affections.

Q. Did the cholera-morbus occur frequently?

A. They lasted a day or two.

Q. How long the choleric?

A. About the same. At one of these attacks of cholera-morbus or choleric, I can't say which, I was not present, and my friend Dr. Bliss attended him.

Q. When did this abscess commence, and how long did it last?

A. The books will give the precise date of opening the abscess; from its commencement to its termination was about eight or ten days. 3229

Q. How often had he inflammation of the lungs, before 1856?

A. At least twice.

Q. What was the duration of the complaint each time, and its severity and effect upon him?

A. One at least was severe and dangerous, lasting two or three weeks, and confining him to the house, and part of the time, to bed. I cannot fix the time when that occurred. I think it was in the latter years of his illness.

Q. There was a period in his illness when you thought it not of sufficient consequence longer to restrain him in

3230 respect of the indulgence of his appetite for food ; about what time was that ?

A. About the last eighteen months of his life.

Q. Why did you then think it no longer material to use such restraint ?

A. He himself gradually insisted upon and did eat more, and this occurring some time before I knew it, and he none the worse for it, I urged him no further on the subject.

Q. Were you occasionally at dinner with him at Union square, during his illness ?

A. Not at Union square, but often at Hellgate.

3231 Q. Prior to his attack, did you ever see him exhibit any anger, irritation, or rudeness of any kind towards his wife ?

A. I did not.

Q. Were not great self-respect, and studious courtesy, and propriety of demeanor towards others, in his personal intercourse, marked characteristics of Mr. Parish before the attack ?

A. They were.

Q. Did you whilst attending him after the attack, regard his apoplectic disease as a hereditary one ?

A. Not now recollecting the history of his father's case, I have no answer to the question. I did not regard his disease as hereditary : I do not recollect that I did.

3232 Q. How soon after the attack had Mr. Parish the use of his left arm ?

A. As he recovered strength in his body generally, that quickly returned. He had some use of it, so as to show it was not paralysed in a day or two.

Q. Was that arm ever affected by the paralysis, or affected by his illness beyond being simply weak, when he was himself suffering under some of his special sicknesses ?

A. It was not.

Q. Was the left leg in any measure or degree affected by his paralysis ?

A. It was not.

Q. How long was it after his attack that you first supposed he complained of his eyes, so as to induce you to make trials with spectacles, or otherwise ?

A. From eighteen months to two years.

3233

Q. For how long did you continue making these experiments?

A. Several weeks.

Q. Was it during this period that you called on Drs. Wilkes and Dubois?

A. I was not trying these experiments all this time. I called in Dr. Wilkes first, and some months or a year afterwards, Dr. Dubois.

Q. How often after he first complained about his eyes, did you try experiments with glasses or otherwise?

A. I don't know; many times, if that will cover the question.

Q. What experiments did you make yourself, without the aid of either of the other gentlemen?

3234

A. The trial of glasses of different degrees of convexity.

Q. Did you in these experiments select for him a glass or glasses to be worn as most suitable to his condition?

A. I tried different glasses, from those presented to me, and so far selected.

Q. Over how long a period did these experiments upon his sight made by you extend?

A. Several weeks.

Q. Were they all within the same year?

A. Probably not.

Q. How long an interval was there between the first and the last of them?

3235

A. I have no recollection on that subject. They were tried occasionally after the first trial; I cannot say when.

Q. What led to your calling in Dr. Wilkes, and for what purpose did you call him in?

A. Mr. Parish's repeated complaints about his eyes.

Q. About what time was that as near as you can recollect?

A. From eighteen months to two years after the attack.

Q. For how long and how often did Dr. Wilkes attend?

A. He may have made eight or ten visits—I can't say what period of time they covered.

Q. Were they not all within the same twelve months?

A. In much less time.

Q. About what time did you call in Dr. Dubois?

- 3236 A. Some months or a year later.
 Q. Was he called in for the same purpose?
 A. For the same purpose.
 Q. How many visits did he make, and about how long a period did they cover?
 A. Some five or six visits covering a period of from two to four weeks.
 Q. Did either of these gentlemen operate upon the eyes of Mr. Parish?
 A. They did not.
 Q. Did you, or either of them, as far as you know, ever discover any defect or difficulty in his eyes beyond what you yourself saw and knew before Mr. Parish began to
 3237 complain of them?
 A. We did not.
 Q. Were Dr. Wilkes and Dr. Dubois pupils of yours?
 A. Neither of them.
 Q. You have stated that you saw Mr. Parish reading; when, according to your best recollection, did you first see him reading anything, and what was it?
 A. Within the first two years, and a newspaper.
 Q. Can you not state the period of that occurrence with any more certainty or precision, as to time, than within the first two years?
 A. Not with certainty, but I think even within a year.
 Q. Did that occur before his sickness of October?
 3238 A. No, it did not.
 Q. According to your best recollection did it occur as early as the year 1849.
 A. Probably not.
 Q. Can you say that it occurred as early as the year 1850?
 A. I think it did.
 Q. Was any one else present the first time you witnessed it?
 A. I do not recollect the first time.
 Q. In what part of the house was it you witnessed it the first time?
 A. I have just stated I do not recollect the first time.
 Q. How often did you see him reading the newspaper?
 A. I do not know; frequently.
 Q. Is it your best recollection you saw it as often as twenty times?

A. Yes ; and more. 3239

Q. How late in his illness did you see it for the last time ?

A. I do not remember.

Q. Did you see it as lately as within the last three years of his life ?

A. I think not.

Q. Did you see it within the last four years of his life ?

A. I am uncertain.

Q. Who was present at any time when you saw him reading the paper ?

A. Mrs. Parish.

Q. Was any one else ever present ?

A. Probably some attendant or servant, but of that I 3240 cannot speak.

Q. Was any other person present to your knowledge at any time when you saw him read the paper ?

A. I generally found him reading the paper at my morning visits when there was no person at the house but his wife and the servants.

Q. Have you any present recollection that any servant was ever present when you saw this ?

A. I have no such recollection.

Q. You have said you generally saw him reading in the morning when you made your visits ; do you mean that whenever you called to make a morning visit you found him or saw him reading the paper ? 3241

A. No.

Q. How do you know that he was reading the paper on these occasions when you say that he was reading the paper ?

A. In the same manner that I see that Mr. O'Connor is reading what he writes.

Q. Can you give no better or fuller answer than that ?

A. By his intelligent look at the paper.

Q. Can you state any other means whereby you knew or ascertained that he was reading the paper ?

A. When I made trials of glasses I would ask him whether he could read such and such type, putting the paper before him, and he would assent or dissent as the case would be, by nodding his head in the one case, and sh-

3242 **Q.** Putting it in the other, accompanying it with yes or no ; also by negative proof ; I never have seen him hold the paper upside down.

Q. Did you ever take any pains to scrutinize and see how he was holding the paper, and whether he held it upside down or not ?

A. No ; but I could not have failed to have seen it if he had done so.

Q. Was any other person, that you can now name or specify, besides yourself and Mrs. Parish, present when you showed him the paper, at the trials of the glasses ?

A. I cannot ; but have no doubt some of the servants were present.

3243 **Q.** With what newspaper or newspapers did you experiment at the trials of the glasses ?

A. I think it was always the Courier and Enquirer that I found there, and used for the purpose.

Q. Is that the paper you think you saw him reading in the mornings ?

A. It is.

Q. You have stated that you saw him reading business papers, how often did that occur ?

A. I cannot say how often, but I have seen him with his tin box before him picking out papers, and looking at them.

Q. About how often, according to your best recollection ?

3244 **A.** Say six times ; probably much oftner.

Q. Did you ever see him reading business papers except when he had the tin-box before him, or present with him ?

A. I have seen such papers before him, but whether he was reading or not, I cannot remember.

Q. When he had the tin-box present, can you say that he was reading any of the papers ?

A. I have seen a paper or papers in his hand, looking at it intelligently, as if reading it.

Q. How often, according to your best recollection, did you witness that ?

A. I believe I answered that question ; six times or more ; I have no other answer.

Q. Where those papers which you thus saw him apparently reading, manuscript or print ?

A. Manuscript.

8245

Q. Did you notice whether they were particularly large engrossments, or ordinary writing?

A. I paid little attention to them. I did not look over Mr. Parish's papers.

Q. Did you in any instance give such attention as to see whether he had any of them up side down?

A. I never saw him have one upside down, but did not give sufficient attention to determine the fact.

Q. Can you name or designate any person except yourself and Mrs. Parish who was present on any of these occasions when you supposed he was reading manuscript?

A. I cannot.

Q. About how soon after Mr. Parish's attack did you witness his thus reading manuscript?

8246

A. Within eighteen months.

Q. Was it before 1850?

A. Probably not.

Q. When did you last witness such a transaction?

A. I cannot recollect.

Q. Did you within the last four years of his life?

A. No.

Q. When you saw him reading the paper did he continue reading it notwithstanding your presence?

A. Yes, while I was talking with Mrs. Parish.

Q. Have you any recollection of his doing such a thing as that at one of your calls previous to his attack.

A. I never saw him at that time of day at his house, except when I was attending him for cataract.

Q. Have you any personal knowledge of any reason or fact causing Mr. Parish to give up or cease from this practice of reading the paper?

(Question objected to by Mr. Cutting as assuming that the practice was given up. Question allowed.)

A. I know that some time after his eyes began to trouble him he gave up this practice; I know of nothing causing him to give up that practice, except the apparent change in his sight.

Q. What appearance was there of a change in his sight?

A. His constant complaints, and incessantly referring to his eyes.

2248 Q. Was there any appearance of a change in his sight, except what you have last mentioned?

A. The fact of his ceasing to read was an additional reason for my thinking so.

Q. Was there any appearance of a change in his sight, except the complaints and references you have mentioned, and the ceasing to read?

A. That is all that now occurs to me.

Q. Did he cease to read as early as the year 1853?

A. Probably he did.

Q. What is your best recollection on that subject?

A. That is my best recollection, that he did cease to read as early as that time.

Q. Did he cease to read as early as the year 1852?

2249 A. I am uncertain.

Q. Had Mr. Parish much embarrassment or difficulty in getting people to find out what he wanted or desired?

A. He had, except of the common affairs of life.

Q. Please to state what you mean by the phrase "common affairs of life."

A. Those things with which his attendants and those about him were familiar, every day occurrences, his wants at table; at my visits, which were every day, his conferences with me, we had no difficulty about.

Q. What did his conferences with you relate to?

A. His own case.

2250 Q. At whose instance did you present to him the book or paper to write upon, in the summer of 1849?

A. I cannot tell; it was probably my own thought.

Q. Did you make or have you got any memorandum or means of fixing the date of that occurrence?

A. I have no such memorandum or means.

Q. How long were you with him the day of that experiment?

A. I do not know.

Q. What material did he use to write with the first time?

A. A lead pencil.

Q. How long was he using that at that time in these experiments?

A. I can fix no time, he made several trials, two or three or four.

Q. Did the marks or characters he made on each of these three or four trials appear to you to be the same? 3251

A. They did.

Q. About how long was he employed in making one of these trials?

A. Possibly one or two minutes.

Q. Were the characters large or small?

A. Large.

Q. Were they of the same size or nearly so on each trial?

A. Nearly so as far as I can remember.

Q. How large were the characters?

A. From three-fourths of an inch to an inch long as far as I can call it to mind. 3252

Q. Was it in a book or on a separate piece of paper these trials were made?

A. I cannot say distinctly, but my impression is, a book, and a piece of paper and afterwards a slate.

Q. What was the material used to write upon the slate?

A. A slate-pencil.

Q. Did you mean to say, that two, three or four trials were made with the lead pencil?

A. Yes, with the lead pencil, but at the same visit.

Q. Was the slate used at the same visit?

A. I imagine not.

Q. About how long after the lead pencil trials, was the slate trial?

A. I have no recollection, but presume on the next day or thereabouts. 3253

Q. Who introduced the slate and slate-pencil?

A. I do not know.

Q. Who suggested that experiment?

A. I do not remember.

Q. How many trials did Mr. Parish make on the slate?

A. I do not remember; it was more than one; I can not say more than two.

Q. Were more than one trial made with the slate at that same interview when it was first introduced?

A. I do not remember.

Q. Was the slate introduced and a trial made with it by

3254 Mr. Parish, at another interview after that at which it was first used ?

A. I think so, but am uncertain.

Q. If no slate was introduced a second time, was more than one trial then made by Mr. Parish ?

A. Whether several times on that day, or one on that day and again on another, I do not remember.

Q. When the trials were made with the slate, were the characters the same in size and appearance as those made with the lead pencil ?

A. The same in appearance ; whether they varied in size I cannot tell.

Q. Were all the characters present, so that they could be compared, when the last trial was made ?

A. I do not remember.

Q. Did you ever see all the characters made at these several trials together at one time ?

A. I have no such recollection.

Q. Have you any recollection whether you did or not see them all together at one time ?

A. I have not.

Q. Do you remember what book that was in which one of these trials was made ?

A. I do not.

Q. Do you know whether any of these characters have been preserved, or where any of them now is ?

3256 A. Such have been shown to me, but I cannot identify them.

Q. When were they shown to you ?

A. Since Mr. Parish's death.

Q. Where ?

A. At Mrs. Parish's house.

Q. Who showed them to you ?

A. Mrs. Parish.

Q. Who were present at the time ?

A. I think one of my brothers—probably Henry.

Q. Are you not certain which of them it was ?

A. I think it more probable it was Henry and Joseph.

Q. Were any persons not of the family present ?

A. I remember no other.

Q. Were they exhibited to you more than once since the 3257 death of Mr. Parish?

A. I think twice I have seen them.

Q. Where did you see them the next time?

A. Always at Mrs. Parish's.

Q. Who were present when they were shown to you that time?

A. At one time, I believe, Mrs. Parish alone; at the other, she and my brother.

Q. Was the slate then shown to you?

A. It was not.

Q. Do you know whether the slate with the characters on it was preserved, and if so, what has become of it?

A. I have no knowledge that it was preserved. 3258

Q. Was the book shown to you since Mr. Parish's death?

A. The book and a sheet of paper.

Q. Where did you last see that book and sheet of paper?

A. At Mrs. Parish's house.

Q. About how long ago?

A. Within ten days.

Q. At any of these trial spoken of, was any other person present whom you can name or designate, except yourself and Mrs. Parish?

A. I cannot name or designate any other.

Q. Was any kind of aid or assistance given to Mr. Parish in making any of these characters on these trials?

A. None, except holding the object before him on which 3259 he wrote.

Q. Who held it?

A. I do not remember.

Q. When any of these trials were being made, was anything said to Mr. Parish by way of requesting or urging him to write?

A. I do not remember the particulars as far as that.

Q. Have you any recollection whether such urgency was made or not?

A. I have none.

Q. Was it on the day of the first trial, or on the day of the last one, that Mrs. Parish made the remark, using the word "wills?"

A. Probably the first.

: 260 Q. Have you any recollection how that fact was?

A. That recollection is not distinct, it is merely the impression of an exclamation to the effect stated.

Q. Have you a distinct recollection that she made that exclamation at all?

A. Not distinct, but an impression.

Q. How soon after this did you first make any effort to induce Mr. Parish to write?

A. Not until after his illness in October; as far as I remember, I am not positive about that.

Q. How often did you try to induce him to write?

A. A number of times, certainly more than six, perhaps twice that number; I tried every day at successive visits
3261 for an uncertain number of days, which I can not state.

Q. How long a space of time did these efforts on your part cover?

A. I cannot tell.

Q. Did you continue trying daily a whole year?

A. No, nor six months, nor probably three.

Q. After the lapse of this period, not exceeding six, and perhaps three months, did you ever again try to induce him to write?

A. I remember no such further trial.

Q. Were these efforts of yours to make him write all before the end of the year 1850?

A. I think they were—my impression is they were all
3262 in the course of the winter after his illness.

Q. What did you first do by way of trying to make him write, and please to go on and state all that you said to him, and all that you did with him, and all that he did in the course of those efforts, as far as you can now recollect?

A. Of the conversations or language I have no recollection; I did place before him in a convenient situation some object on which paper was placed, and giving him a lead pencil, urged him to write; at times these objects were used, at others a slate and slate pencil; at another still a black board was brought to the house, but whether I tried that, I am uncertain; he attempted to write with the lead pencil, and his name he was asked to write; he did succeed in writing it out in full once or twice, but in subsequent experiments he would write as far as H. Par. or

thereabouts, and then the hand would be unsteady, and 3263 }
the word not be finished.

Q. How did he write his name, H. Parish or Henry Parish?

A. I think H. Parish.

Q. Can you say that he wrote that more than once?

A. Certainly twice.

Q. Did he write it any more than twice?

A. Beyond that I am not distinct.

Q. Were those two trials in which he wrote his name made at the same interview?

A. That, I cannot remember.

Q. How often, as nearly as you can remember, did he in any one of these interviews try to write? 3264 }

A. Three or four times; he soon tired.

Q. Did he fail to write the name on another trial at the same interview in which he wrote it?

A. I am inclined to think it was so.

Q. Was it at the first interview, or a subsequent one, that he succeeded in writing H. Parish?

A. I think the first.

Q. In any of these interviews did he attempt to write anything else but his name?

A. I have no recollection of any other word or words attempted.

Q. Was he requested to write anything else than this name? 3265

A. I do not know.

Q. Was any copy of his name or of anything else made or placed before him at any of these interviews?

A. Such were made, but not at the first trial when he wrote his name.

Q. Who made this copy for him to write by?

A. Probably I did; I will not be certain.

Q. What did you write it on, and what with?

A. The paper and the pencil I wished him to write on.

Q. Are you certain that no copy was placed before him previously to his having written "H. Parish?"

A. I am certain of that.

Q. Was the copy placed before him at the first interview?

3266 A. That I cannot say, it was from observing his writing the name, probably, that I was induced to put the copy before him.

Q. Is it now your best recollection that he succeeded in writing "H. Parish" on his first trial?

A. That is my best recollection—the first day of trial—whether actually the first time he put his pencil to paper I cannot say.

Q. Can you say that he did not make the attempt and fail several times before he wrote "H. Parish?"

A. I cannot so say.

Q. When you wrote "H. Parish" on the slate for him to copy by, had you any impression or apprehension that he 3267 had forgotten how his name was written or spelt?

A. I cannot say what my impression was; there may have been some such suspicion; I knew nothing about it.

Q. With Mr. Parish's knowledge, education and experience, can you now say what service in your view could possibly have been rendered him at that time in writing a name for him to copy by, unless he had forgotten how to write, or how to write or spell his name?

A. I found that he wrote his name partially in most of the trials, and the experiment was whether by fixing his eye steadily upon the name properly written it would aid him. It did no good.

EDWD. DELAFIELD.

3268 Subscribed and sworn be-
fore me June 26, 1856, }

A. W. BRADFORD,
Surrogate.

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June 27, 1856. 3269

Parties present.

Edward Delafield, being further examined, says :

Q. In the course of these trials, was the same sheet of paper, or different sheets of paper used ?

A. I cannot say ; I don't remember.

Q. Was the signature, " H. Parish," written for him more than once ?

A. I think so ; but don't remember distinctly.

Q. Can you say what persons wrote it at the different times, or whether it was written by more than one ?

A. Not from my own observation ; I do not remember **3270** seeing other persons write it.

Q. Are you sure that you wrote it yourself at all ?

A. I am not sure ; it was written by myself or some person, in my presence.

Q. Can you not remember whether all the copies you saw, were written in your presence or not ?

A. I cannot.

Q. Have you any present recollection, at what stage of any of these interviews, a copy was brought in by any other person ?

A. No.

Q. Were these trials made at interviews, on successive days, or was there any interval of a few days between **3271** them ?

A. On some successive days ; whether afterwards at intervals, my memory does not reach.

Q. You do remember that these trials were repeated, at some successive days ; have you any present recollection that they were ever resumed after an interval ?

A. I have not.

Q. According to the best of your present recollection, how many of these attempts to write were made in your presence at this set of successive interviews ?

A. I cannot fix any number ; I will say from five to twenty.

Q. Could you not approximate more nearly to the number by force of your memory ?

2272 A. I could not.

Q. Did Mr. Parish readily acquiesce in your applications to him to write on these occasions?

A. At first; not afterwards.

Q. Do you mean at the first interview, or the very first attempt?

A. At the first interview,—it may have been more,—at the first interviews.

Q. About how long did it take him to write "H. Parish," at the time or times he wrote it?

A. The answer to that question cannot be precise; possibly from thirty to sixty seconds.

Q. Were the letters large or small?

A. About the common size of his mode of writing;

3273 perhaps a little larger.

Q. Did he, each time that he attempted and failed, get just as far as H. Par, and there stop?

A. That is my impression, but I will not be precise on that point. It was ordinarily so.

Q. When he failed in that way, did you ever try to make him finish the letters of that signature?

A. I cannot remember.

Q. Was his writing a signature, or part of it, a continuous effort on his part, or did he stop one or more times and resume?

A. His successful efforts were continuous. When he once stopped I do not think he resumed in the same place.

Q. Were the interviews on these occasions of considerable duration?
3274

A. They must have been longer than ordinary visits, probably did not exceed half an hour.

Q. Did he, in each instance of an attempt to write, write some part of the name H. Parish, or did he make other marks?

A. I have no recollection that he made any other marks than some portions of his own name on such occasions.

Q. Was he asked to write anything else?

A. I do not remember.

Q. Did you speak at large and urgently or persuadingly in the course of these interviews, by way of inducing him to write if he could?

A. I spoke urgently and persuadingly. 3275

Q. At any time during these interviews was any assistance given to him to aid him in writing?

A. No direct assistance.

Q. What indirect assistance was given, if any?

A. Simply placing things in different positions, to ascertain what was most convenient.

Q. Did he write upon a table, desk, or other fixed substance?

A. I think he did, part of the time.

Q. On what?

A. I presume, a table. I have some recollection of some kind of frame being placed before him, I can't say what that was. 3.76

Q. Did he, in any of these trials, write upon a book, or anything held by any other person?

A. I recollect no such thing.

Q. Was Mrs. Parish present at these interviews?

A. At some of them, certainly; probably all.

Q. Can you name or designate any other person who was present at any of them?

A. I cannot.

Q. Was any other person present, according to the best of your recollection, at any of them?

A. I remember no other.

Q. Were any of these writings or attempted writings by Mr. Parish preserved? 3277

A. I am aware of none.

Q. Were the papers or any of them, which had been written on by him at one interview present at any other?

A. I do not remember.

Q. Have you ever seen any of these papers since the interview at which it was used?

A. I do not remember.

Q. Were all the trials to make him write which thus took place in your presence made with pencil and paper?

A. I am not sure—a slate and blackboard were used, whether in my presence I am not absolutely sure.

Q. Do you remember seeing any attempt of Mr. Parish to write upon a slate after the attempts you mentioned as having taken place in 1849?

3278 A. I do not remember distinctly—my previous answer gives my best recollection.

Q. Did you ever see a blackboard at the house in Union Square?

A. I think I did—I know it was ordered.

Q. About what time did you see it there?

A. At some short interval—a week or two after the trials with the pencil, if I saw it at all.

Q. Have you any recollection of witnessing any attempt of Mr. Parish to write or make marks upon the blackboard, or any attempt to induce him to do so?

A. I have not.

Q. When you ceased from further personal efforts to induce him to write, why did you give it up?

A. I left it in other hands.

Q. Was that the only reason?

A. I began to despair of success.

Q. Did your despair ever afterwards take such a turn as to induce you to try again?

A. I remember nothing further upon that subject.

Q. In what other hands did you leave this business as you have stated?

A. Those of his wife.

Q. Did you ever see at Union Square or at Hell Gate any block letters?

A. None, they are for the blind, not the mute.

3280 Q. Did you never advise the use or trial of block-letters?

A. I did not.

Q. Were you, or not, at that time quite familiar with that device?

A. Not specially.

Q. Did you not know the fact, and had you not long known that block-letters were in use?

A. Yes—by the blind.

Q. Were you not aware that they were in use to facilitate the early efforts of young children who were not blind to form words.

A. Yes, not as block-letters, but as letters for the eye to see.

Q. In using the phrase, block-letters, in my questions,

have intended to refer to solid letters of wood or other material, each letter being separate—did you so understand me in your answers?

A. By block-letters I understood you as objects sufficiently raised from some surface—sufficiently to be felt.

Q. Are the raised letters, forming words and sentences, used for the blind, called block-letters technically, or in common parlance?

A. Yes, as far as I know.

Q. Did you know as early as 1849 that there was such an article as single letters, on a single piece of wood, or other hard substance, which might be used to form words by persons who knew how to form words, but could not write?

A. Yes, such as children use.

3282

Q. What did you call such things?

A. I do not know their name, they are child's toys.

Q. Did you ever order, recommend or refer to the use of any thing of that kind in trying to enable Mr. Parish to form words or communicate his ideas?

A. I knew from report only that some separate letters were used; whether I ordered them, I do not know.

Q. If you do not recollect having ordered this experiment with solid letters, and your supposition was that Mr. Parish's failure to write, resulted from his hand becoming tired, can you state why you did not advise a resort to this expedient?

A. I do not know that I did not advise it, and I can give no further answer to the question, except as already stated 3283 as to the report of others.

Q. You used in the early stage, counter irritants of the skin of the head; please to state what that treatment was.

A. Principally the application of ammonia in a liquid form placed on compresses and applied to the skin—probably, also, mustard applied to the skin; I recollect nothing else.

Q. Please to state how, and by whom, and at what time, electro-magnetism was applied, and for what purpose?

A. The witness, referring to a transcript from his ledger, says: It was commenced on the 1st of September succeeding the attack, and applied until the 2d of October, I should

3284 judge. It was applied by Dr. Markoe, probably all the time. It was applied by the instruments in which the power of galvanism and of the magnet is combined, and so arranged as to transmit a succession of small shocks through the part, as made by Mr. Pike, the optician, called the electro-galvanic battery, sometimes electro-magnetic battery. It was applied to the paralysed limbs, and I believe also to the throat for the purpose of arousing the powers of motion in the paralysed parts. It was applied principally to the right arm.

Q. Was this electro-magnetism applied to any other part than those you have named?

A. No.

Q. Strychnine was applied—please to state when and 3285 for what purpose?

A. It was given internally, not applied; at some time in the course of the first year, I presume, and for the purpose generally of giving an increasing power of motion to the paralysed parts.

Q. Can you state how often it was given, and in what quantities, or nearly so?

A. About three times a day for, perhaps, several weeks, and in doses gradually increased from the twelfth to the sixth of a grain—this is not from memory as to the doses, but from my medical judgment as to what I must have done.

Q. About what time, according to your best recollection, did this administration cease?

3286 A. I cannot remember.

Q. Was it before or after the illness of October, 1849?

A. After the illness of October, 1849.

Q. Have you any idea how long after?

A. Probably several months, and equally probably within that year.

Q. You have mentioned one severe illness at Hell-Gate; at what time was that?

A. Referring to the transcript from his ledger, the witness says: On the 26th of August, 1852.

Q. What was that illness?

A. Either cholic or cholera morbus.

Q. You have mentioned that your visits were not always medical. Are not all your visits to Mr. Parish, af-

ter his attack, charged, except the Sunday evening calls? 3287

A. Probably not all.

Q. What visits to him, except the Sunday evening visits, do you suppose not to have been charged?

A. I made frequent visits which I did not deem essential, and then they were not charged.

Q. Did you charge no visits except such as you deemed in a greater or less degree essential to the care of Mr. Parish's health?

A. No, as either essential in a strict sense, or according to his requirements, or those of his wife.

Q. Have you a ledger account containing your charges against Mr. Henry Parish for your visits and medical services?

A. I have.

3288

Q. Please to produce it, in order that these charges may be exhibited in evidence in this case.

A. I object to producing any portion of my books to be made public, considering it a violation of professional decorum, and injurious both to the profession and patients that they should be introduced. I agree to subject a transcript from them to the Surrogate and to the Counsel. The books are here.

(Mr. O'Connor insists upon their production, and the Surrogate here directs the witness to produce the entries in his ledger relating to his attendance on the deceased. The witness produces the entries, and a transcript taken from them according to the Surrogate's requisition, and Mr. O'Connor offers them in evidence. They are marked Ex. No. 67.)

Q. Are the ledger entries full copies of all that is contained in the original entries in the day book?

A. They are, as I believe, word for word.

Q. Have you sought for and been unable to find any charge referring to the care of Jacob Parish?

A. I have through my book-keeper, and I am satisfied that there is none.

Q. As to the experiments upon the arm with the red wax

3290 tioned in your direct examination, were they with the right arm, and when were they made?

A. They were with the right arm, and made at various times within the first two or three years.

Q. Did you ever discover in his right arm or right leg any other evidence of the existence of paralysis therein, except the want of motion?

A. Yes, a relaxed condition of the muscles at one time, a contracted and rigid condition of them at another, the contracted condition existing mainly in the arm.

Q. Which of these conditions was the first, or did they alternate?

3291 A. The relaxed condition was the first; the contracted condition came on at a much later period, alternated occasionally, and then became fixed in the arm.

Q. You stated, on the direct examination, that you used to express to Mr. Parish hopes of his eventual recovery; at about how late a period of his illness did you last express such hopes to him?

A. I can fix no time.

Q. State your best recollection on that subject.

A. I have no recollection as to time on the subject, even approximately.

Q. Can you state, even approximately, at about what stage of his illness you yourself gave up hope of his eventual recovery?

3292 A. I had little or no hopes after the first year—the first twelve months of his illness.

Q. Was it your practice to pay medical visits at Hell-Gate, except when there was some special cause or access of illness in some form?

A. In the earlier years, I probably went occasionally, even without special emergency requiring it, subsequently not.

Q. In the years 1853 and 1854, was it your practice to make such visits at Hell-Gate without some such special emergency?

A. It was not.

Q. What connection was Miss Herlitz of Mrs. Parish?

A. Her cousin. Her name is Louisa Herlitz; she resides now at Dr. Garrish's, in Broadway, in the same build—

ing adjoining Mrs. Parish's which has been mentioned. 3293

Q. Please to state now, if you are able to do so, more accurately than before, the amount Mrs. Parish received from your mother's estate?

A. The amount I find, upon further inquiry, to be \$3335.79, and I find that she did not receive anything from her sister Emma. From her brother William's estate, she received about \$10,000, and that estate is not yet entirely divided.

Q. You have mentioned that you spoke to Mr. Parish during his illness about persons and things in which you supposed he might take an interest. Please to name any person whom you recollect having thus addressed him about?

3294

A. I can remember no individual instance, or person or thing.

Q. Did you, after the death of Mr. Parish, cause a *post-mortem* examination to be made?

A. I did not; there was none made.

Q. Was such an examination suggested by any one?

A. It was not.

Q. Were you aware at the time of his death that his soundness of mind and capacity were likely to become a question of judicial inquiry, and that your sister was interested therein?

A. I was.

Q. Did the idea of a *post-mortem* examination occur to you at all?

A. It did.

Q. Did you speak of it, or consult any other person about it?

A. I do not know that I did; if at all, it must have been with my partner, and no other.

Q. Do you recollect having had any conversation with your partner about it?

A. I do not.

Q. Why did you not make, or cause to be made, such an examination?

A. Because I knew of no useful end that could be gained by it, and further that I did not wish, without a good object so far to wound the feelings of the widow.

3296 Q. If such an examination would answer no good object, how did it happen to occur to you at all?

A. It occurs to me after the death of almost every patient I lose

Q. Do you mean to be understood that, according to your judgment, a *post-mortem* examination of Mr. Parish could not have thrown any light upon the nature of his diseases, or the connection of these diseases with the condition of his mind in life?

A. I do; in any way peculiar to his case, or in any way explanatory of the condition of his mind as peculiar to him.

Q. If on such an examination, competent surgeons had pronounced his brain healthy, would not such result have
3297 been conclusive evidence, or nearly so, that his mind was sound at the time of his death?

A. Not conclusive, nor nearly so.

Q. Considering that Mr. Parish was sound in mental health up to 1849; that his ailments, as far as discoverable in life were known to you, do you mean to say that if to these facts were added, a healthy brain so found on examination after death, the evidence thereby afforded of his being of sound mind at his death, would not be conclusive or nearly so?

A. As the question is now put, the evidence would have been good to that amount or nearly so. I now desire to state that if questions of this description are propounded to me, I wish them to be put in writing, and to be allowed
3298 time to answer them in writing.

Q. In Mr. Parish's case, did you ever know, with absolute certainty, what parts came away in the sloughs of which you have spoken?

A. Not with absolute certainty, but as far as could be learned by careful examination with the microscope by competent persons.

Q. Would not a *post-mortem* examination have disclosed the facts on this point?

A. It probably would.

Q. If the organs of speech of Mr. Parish were in fact paralysed, would evidence of that fact have probably been obtained in a *post-mortem* examination?

A. I decidedly think not.

3299

Q. In using the tongue in life and in using the throat and mouth in eating and drinking, did you discover any evidence of those parts or any portion of them being paralysed, except the evidence afforded by loss or failure of speech in Mr. Parish's case?

A. I did not, until late in life, the last few weeks, when, for some reason difficult to explain, his food was not swallowed as soon as masticated.

Q. Is it, then, your judgement that in Mr. Parish's case an examination immediately *post-mortem* of his brain and stomach could not probably have thrown any light on the question, whether he was of sound mind at the time of his death?

3300

A. That is my judgment. I have repeatedly examined bodies when extensive disease existed in the brain, without any lesion of the mental faculties.

Q. Have you ever examined a body, where the subject, prior to an apoplectic attack, was in sound mental health, where no subsequent disease having any tendency to affect the mind existed, and where at death the brain and stomach were found healthy?

A. I cannot call such a case to mind at the moment—I should like to make the same protest, but there are questions referring to past cases which are not now in my mind; pathology has not been with me a professed subject, and in such investigations we always call upon those who make that subject a favorite study.

3301

Q. If such a case were presented to you, would you not deem the evidence conclusive that the deceased was of sound mind at his death?

A. By no means conclusive, but highly probable—it is not at all unfrequent to examine the brains and the rest of the body of persons dying with unsonund mind, and to discover no lesion throwing any light on the matter.

Q. Did you ever witness a *post-mortem* examination of a paralytic subject, who had had an apoplectic attack and had never had the power of speech or of writing subsequently to such attack?

A. No such case now occurs to me—we do not ordinarily examine the bodies of paralysed persons in private prac-

3302 tice, and I have been in no public practice for a number of years.

Q. Where was Mr. Parish interred?

A. At his cemetery in Greenwood.

Q. Is not that a vault belonging to the Delafield family as well as Mr. Parish's estate?

A. It is not.

Q. Did it belong exclusively to Mr. Parish?

A. The vault in which his body was placed belonged exclusively to him—our family having an adjoining vault communicating with it, but nevertheless entirely distinct, with a distinct opening—they have distinct outer doors—they are in no way one vault.

3303 Q. What physicians, or surgeons, or other medical persons attended Mr. Parish, besides yourself and your partner, from the attack in 1849?

A. Dr. Francis C. Johnston, Dr. James C. Bliss, since deceased, Dr. George Wilkes, and Dr. Abraham Dubois, that is all.

Q. When did Dr. Johnston's attendance cease?

A. Shortly after my return from the country in the month of August, 1849, when he left town for some excursion—Dr. Bliss attended upon some occasion at an attack at Hell Gate, when I was absent for a few days—the attendance of Drs. Wilkes and Dubois was in relation to Mr. Parish's eyes, on the occasions I have already men-

3304 tioned.

Q. Your attention was drawn at an early period to the condition of Mr. Parish's mind, did you ever call in to see or examine him, or to advise on that subject, any professional person?

A. None other than Dr. Johnston.

Q. Did you consult him on that subject?

A. That must necessarily have been a part of our consultation—I have no recollection upon the subject, but I may say generally that I know of no treatment and never heard of any treatment in such cases, likely to produce any exclusively good effect upon the mind.

Q. I do not inquire in reference to treatment, but as your consideration was given to the question of the condition of his mind, did you ever, to your recollection, consult

with any professional gentleman as to the state of Mr. Parish's mind, or request any medical gentleman to investigate that subject?

A. I did not.

Q. Did you yourself ever make any examination of Mr. Parish or apply any test to him for the exclusive purpose of ascertaining the state of his mind?

A. No.

Q. You have mentioned an occasion when Major McDonal was present, when was that?

A. Not far from three months before his death, or thereabouts.

Q. About how large a company was there at that time?

A. Some six or eight persons.

Q. When Mrs. Parish asked Mr. Parish whether he wished the Major to dine with him, was that done in a loud tone so that all present might hear it?

A. It was—it was made across the room.

Q. In addition to such gesticulation as Mr. Parish made on that occasion, did he utter any sound?

A. His usual sound—pointing with his finger to the one and then to the other, and saying “nyeh, nyeh, nyeh.”

Q. During the 7 or 8 weeks just before Mr. Parish's death, when he was sinking as you have described, did you see Mr. Daniel Parish at the house of his brother?

A. I have no recollection of seeing him.

Q. After you were satisfied that Mr. Parish had but a short time to live, did you send any notice of that fact to Mr. Daniel Parish or send for him?

3306

A. I did not.

Q. When did you first know or learn that Mr. Parish had made a will?

A. I never heard of it as far as I remember, until about the time the first codicil was made.

Being examined, by Judge Edmonds, the witness says:

The brain is ordinarily the seat of the disease of apoplexy. In many instances it affects the brain by an effusion of blood into some part of the brain, by a rupture of blood vessels; in others, by an effusion of fluid called serum,

3308 By pressure upon the brain this effusion cuts off, more or less, the nervous influence supplied by that part of the brain. In consequence, any muscles supplied by nerves derived from that part of the brain, have their power impaired or lost ; and any other parts not muscular, performing other than muscular functions may be equally injured. In either case, necessarily, is the mind affected.

Q. What is the effect, physically or mentally, of the effusion of serum upon the brain ?

A. The same as that of the blood.

Q. What are the symptoms by which you determine that the mind or intellect has been affected by this disease ?

A. Not by any physical symptoms, but the point is ascertained by simple investigation of the condition of the
3309 mind itself by presenting to it in various ways objects requiring intelligence.

Q. Is the disease hereditary ?

A. The disposition to it is hereditary.

Q. What effect does such an hereditary tendency have on the brain, either as affects the senses or the intellect ?

A. None, as a general rule, until some attack takes place.

Q. You say none as a general rule, what is the meaning of that qualification ?

A. It was hardly necessary as a qualification, but there may be exceptions which I wished to exclude.

Q. Have you ever seen any such exceptions, or any in-
3310 stance of that hereditary tendency as affecting the brain, in the manner indicated ?

A. I have not, and I know of none in the books.

Q. Did you observe whether the attacks Mr. Parish had before July, 1849, had produced any effect upon his intellect ?

A. I observed no such effect.

Q. Did you observe whether they had produced any effect on his physical condition ?

A. None such were produced.

Q. You have mentioned several diseases as having affected Mr. Parish after his attack in July, 1849. I wish to know whether any of them ever produced any effect upon his intellect ?

A. None, except momentarily after an attack of convulsions or after a convulsion. 3311

Q. How long did the effect upon the mind, in that instance continue?

A. In general, there was no effect; but after a prolonged convulsion or convulsive condition, which would continue a few hours, the mind was not fully appreciative whilst in that state. It lasted only a few hours in any instance.

Q. In what manner did that affection of the mind disclose itself?

A. The affection was physical as well as mental, and the state approached so near insensibility as to impair all the faculties for the time.

Q. How was the recovery from that condition manifested—suddenly or gradually? 3312

A. Rather suddenly, so that when it occurred towards evening, the next morning he would be down stairs, shaved and dressed and ready for his usual drive.

Q. Are you, in your profession, aware of cases in which the power of speech and of locomotion is suspended, and the intellect remains intact?

A. I think such cases are on record, but I cannot refer to any particular one.

Q. Did you ever yourself witness such a case?

A. No, of course not.

Q. Do you know the means by which in such cases it is ascertained the intellect is unimpaired?

A. By intelligence of expression and by the power of giving assent and dissent to propositions, all of which can be effected without locomotion. 3313

Q. Is there such a thing as softening of the brain growing out of an attack of apoplexy.

A. There is.

Q. What effect does that softening have upon the intellect?

A. Not necessarily any effect; but it does sometimes impair it.

Q. How is that impairing displayed?

A. By the ordinary symptoms of insanity.

Q. Are a dullness or indifference to surrounding objects, and an indifference to move, symptoms of such a state of the brain?

3314 A. Not necessarily, nor frequently.

Q. Are they ever so?

A. I should judge they might be.

Q. To what do you attribute the dullness which you discovered in Mr. Parish within the few last weeks of his life?

A. The clot of blood which was probably left in the substance of the brain in his original attack, may eventually have so far involved a large portion of the brain by softening and otherwise as to produce the effect in question.

Q. Did you notice whether, during that period, there were any signs that his intellect was affected?

A. None except by a greater disinclination to exert the intellect apparently, and by less attention to surrounding
3315 objects.

Q. Have you ever at any other period of his illness from his attack in 1849 noticed similar indications of an affection of the mind?

A. I did not.

Q. Did you ever after the attack in 1849, take any pains or adopt any measures purposely to ascertain whether his mind was affected?

A. My ordinary intercourse with him gave me the evidence I wanted so decidedly as to make no special experiments necessary on the subject.

Q. Please to state what that evidence was?

A. When I addressed him, he evidently listened to me
3316 with intelligence—when I asked a question, answering it distinctly and clearly; when I spoke to him on any subject requiring no answer, the look of intelligence with which he listened to me, the recognition of individuals, and the evidently greater pleasure with which he recognized certain old friends than indifferent persons—the continuance of the ordinary courtesies of life in which he failed as little for a considerable time after his attack, as before; I could probably think of others, but it would take sometime.

Q. You speak of the expression of his countenance. Can you tell to what extent that influenced you in respect to your getting at his meaning?

A. Very much.

Q. Was there any difference in the power of the expression of the countenance after his attack and before?

A. I think not; in some particulars it was somewhat more active from the necessity of greater use. 3317

Q. What paper was Mr. Parish's favorite newspaper before his attack?

A. I do not know; I hardly remember seeing him read a newspaper before his attack.

Q. Would a *post-mortem* examination of an apoplectic subject determine whether the omission to speak arose from impaired intellect or from affected organs of speech?

A. I think not in the least.

Q. Do you know where the sisters of Mr. Parish boarded the last winter?

A. I do not know, but I heard in the family that it was at the Everett House. 3318

Q. Were you aware during his last illness that they were boarding there then?

A. I think I was, but that they left there a few days before his death.

Q. Do you know whether his perilous condition was communicated to them?

A. I do not know.

Q. How far is that hotel distant from the Union Square house?

A. Some three or four hundred feet.

Direct examination resumed by Mr. Evarts.

Q. You have said in your cross-examination by Mr. O'Connor that you did not consult with a medical gentleman as to the state of Mr. Parish's mind; why did you not have any such consultation? 3319

A. Because I had no doubt on the subject.

Q. You also said that you did not yourself make any examination or apply any test for the exclusive purpose of ascertaining the state of his mind, why did you not do so?

A. For the same reason as I have just answered, and further that every visit I made him was itself a test, and furnished me all the evidence the case required.

Q. Is floating of motes a recognized symptom of disease of the eye?

A. It is.

3320. Q. Of what disorder?

A. Most commonly by some condition of the retina, not a lesion of it, but a functional disturbance, very often a mere symptom dependant upon some distant disturbing cause, such, for instance, as disorder of the digestive organs.

Q. Does this appear as a symptom of any disorder of the eye which tends to, and sometimes produces blindness?

A. It does, but by no means necessarily.

Q. To what disorder?

A. Amaurosis.

Q. Is it a usual symptom in connection with amaurosis?

A. Occasional, not usual.

Q. Were remedies applied for Mr. Parish's relief in the complaint concerning his eyes after his illness, which you have spoken of?

A. They were.

Q. What became of his complaints on this subject?

A. They gradually ceased, whether because he found no relief of the symptoms, or they disappeared, I could not tell.

Q. You have spoken of Mr. Parish anticipating your professional bills prior to his attack, please state in what manner that was done.

A. By making payments every year without asking for a bill.

Q. Does the production of voice depend entirely upon the muscular condition, or the external organs of speech?

322 A. It does not exclusively.

Q. By looking at your books are you able to state accurately the time at which you left, and at which you returned to the city, in or about August, 1849?

A. I am. I left on the 31st of July, and returned on the 16th of August.

Q. What was your habit in keeping your books in respect of entries, by yourself or your partner?

A. They were regular and daily—we each made entries in the same book. His visits were entered by himself in his own hand, and mine by me, otherwise there was no discrimination.

Q. From the time of his attack until his death do you

remember any applications or inquiries to you concerning 3323
Mr. Parish's health on the part of Mr. Daniel Parish?

A. I do not remember any such.

Examination by Judge Edmonds.

Andral's Medical Clinic upon the diseases of the encephalon and its membranes, is an excellent authority, a standard work.

Direct Examination by Mr. Evarts.

Q. You have been asked by Judge Edmonds whether, during the last period of the illness of Mr. Parish, you 3324 transmitted any word concerning him to his sisters at the Everett House: did you during that period see either of the sisters at his house, or receive any communications from either of them concerning his condition?

A. I did not.

Cross-Examination by Mr. O'Connor.

Q. What were the remedies applied for the relief of Mr. Parish's eyes.

A. External remedies, counter irritants such as I have already spoken of, strychnine, blistered surface, the several alkaloids of which veratrine was the principal. 3325

Q. Did not Mrs. Robert J. Dillon very frequently, during your visits to her, enquire of the health of her uncle?

A. I think not.

Q. Did you not speak to her about it in these visits?

A. I did, a few times.

Q. Look at your book and state the period of your absence from the city in 1853 and 1854, in the summer?

A. In 1853 I left on the 2d or 3d of August, and returned on the 29th of the same month. As to 1854, I cannot state it; my book is not here.

EDWD. DELAFIELD.

Subscribed and sworn before }
me, June 27th, 1856, }

A. W. BRADFORD,
Surrogate.

3326 Mr. Cutting calls,

Thomas House Taylor, who being duly sworn, says:—I am a Minister of the Gospel in the Protestant Episcopal Church; reside in the city of New York, and am Rector of Grace Church; have been Rector of that Church more than 22 years; I am 56 years of age; I knew Henry Parish for about the time I have been Rector of Grace Church, 22 years.

Q. Prior to the attack of Mr. Parish, how intimate was your acquaintance, and how frequent and in what relations your intercourse with him?

A. My acquaintance with Mr. Parish was more intimate
3327 than with most of my parishioners; I have visited him at his house in Barclay street, and at his residence in the country at Hellgate; I have dined with him privately, and with large companies.

Q. On what subjects was your conversation with Mr. Parish prior to his illness, when you were in his company?

A. The interests of Grace Church, and the general topics of the day.

Q. What was the general character of his mind as you observed it prior to his illness?

A. He was a sound thinker, but his mind operated slowly.

Q. Upon what subjects were his thoughts and his atten-
3328 tion mainly occupied before his illness?

A. I should answer, his mind was chiefly taken up with his business, but could easily be directed to other subjects of thought, such for instance as the public charities connected with the city of New York.

Q. How did you observe, prior to his illness, his temper or disposition to have been, in respect of evenness and placidity?

A. I should say he was a very even tempered person.

Q. How, as to firmness and decision?

A. I should say, very firm in adhering to his purposes when once formed.

Q. Was he your parishioner during the whole period of your acquaintance with him?

A. Throughout the whole period.

Q. How long have you been acquainted with Mrs. Henry 3329
Parish ?

A. Through the same period.

Q. After Mr. Parish's illness, and at or about the month of November of the year 1849, did you visit him at his house ?

A. I did.

Q. Please give the date, the occasion, and the occurrences of that visit ?

A. I would premise that with regard to dates of events so long transpired, it is very difficult for me to fix them, 3330 except by occasional written memoranda made at the time. Where such memoranda are wanting, although the incidents are indelibly fixed upon my memory, yet it is difficult to fix the date. On the 3rd of November, 1849, I was called to baptize Mr. Parish ; I found him in his chamber at his residence in Union Square, I think upon the third story. He appeared a very feeble man. I commenced a conversation with him upon the nature of the ordinance, to which he made no other reply than by bowing his head. The general expression of his face would have indicated a 3331 lack of intelligence, the muscles were rigid apparently and failed to give expression to the countenance. At first I had my doubts as to his intelligence, but upon repeated questions, and he constantly acquiescing, I thought it advisable to proceed with the service. Upon coming to the questions which are proposed to the candidate, in our office of baptism, Mr. Parish looked me full in the face to the end of the question, and then bowed his head lowly in acquiescence, and continued to do so to the end of the questions. He then relapsed into his former position, hang- 3332 ing down his head as a deeply afflicted man ; but I was left in no doubt as to his understanding fully the nature of the vows he had assumed.

Q. What had been the attitude of Mr. Parish before, in the progress of the office, you came to the questions ?

A. Seated in his arm-chair with his head hanging down.

Q. Did anything further occur at that visit ?

A. After the questions were answered I proceeded to administer the sacrament of baptism. I then took occasion to suggest to Mr. Parish the propriety of his receiving the

3333 Lord's Supper as soon as he should feel his mind prepared to do so. I believe there was nothing else passed at that visit.

Q. Did you at any time, and if so, when, first administer the sacrament of the Lord's Supper?

A. I did on the 30th of March, 1850, for the first time.

Q. Previous to this administration, did you have any interview with Mr. Parish, in relation to the ordinance?

A. I had repeated interviews with him between the 3d of November and the 30th of March, and would allude occasionally to this matter of the Lord's Supper; he would always reply to me kindly, but not definitely; on one occasion I was sent for to administer the ordinance; I think it was in February, 1850; the elements were prepared on the table, and I supposed that he was ready for the Sacrament; but upon my inquiring whether it was his wish that I should now proceed to administer it, he replied in a most affecting manner, "no, no," and then attempting to speak with his usual gesticulation, he appealed to his wife and to myself, to understand his reason why; that, he failed to ac-

3335 complish, and after repeated guesses on our part as to what his wish was, such for instance as inquiring, "Do you wish your friend Mrs. Payne to commune with you? Do you wish your faithful servant and friend Mary Ann to unite with us? Is this room too public? Shall we go to the chamber where you were baptized?" to all of which he continued to give the same touching reply, "no, no;" said in a most doleful voice, with the tears streaming from his eyes, and with continued efforts to speak; at length I observed to Mrs. Parish, that it was evident that something was disturbing his mind, which we could not arrive at, and perhaps it would be better to postpone the whole matter to another time; he immediately seized upon the suggestion and reaching out his hand, shook mine most cordially, nodding his head emphatically, that that was his wish to indicate that that was his wish.

Q. At this time what was the condition of the muscles, and the power of expression of his face?

A. The muscles had regained their flexibility, and his face was as expressive as usual—as it ever had been.

Q. What was his condition of bodily health and strength at this time?

A. He appeared to be as comfortable as a man could be 3337
so paralysed and so much to be pitied.

Q. In what room was this visit ?

A. In the library, on the first floor.

Q. What was the manner of salutation between yourself and Mr. Parish on this visit ?

A. Very cordial, and upon leaving him I inquired if I should call again soon as I supposed some temporary excitement had disturbed his mind, and as he supposed, unfitted him for the Sacrament at the moment, to which he replied by nodding his head affirmatively, and extending 3338
his left hand in the kindest possible manner.

Q. Did you suppose at this interview, that Mr. Parish understood the observations and questions, that were addressed to him ?

A. I had no room to doubt that.

Q. Did you have any other interview with him, prior to the first administration of the Lord's Supper ?

A. I have no recollection at this time of any other.

Q. Please state what occurred upon the occasion of the first administration of the Lord's Supper ? 3339

A. I was sent for on the 30th of March, to administer the communion ; I expressed to Mr. Parish my hope that all difficulties which had prevented his receiving the sacrament at my previous visit, were now removed ; he replied, yah, yah, in his emphatic way, nodding his head emphatically, and smiled upon me in a pleasant way ; I then inquired if it was his wish that we should now proceed with the sacrament ; to that he again replied by nodding his head and saying, yes ; after which I administered the sacrament to Mrs. Parish, and I believe Mary Ann, the servant, and Mr. Parish. 3340

Q. What was his manner during the administration in respect of responses, and how did he receive the elements ?

A. His manner was very devout, great appearance of humility of heart, and I think he would occasionally make a sound of acquiescence, where the answer should come in ; he received the bread in his left hand, and conveyed it to his mouth, and took the cup in his left hand, applying it to his lips as any other communicant would have done.

3341 Q. Did you suppose on this occasion that he understood what was addressed to him or spoken in his presence?

A. There was no possible room to doubt that.

Q. What was then his condition of bodily health, and the appearance of his features?

A. His bodily health seemed to be good, and his features natural.

Q. How many times and at what periods did you administer this ordinance onward to the period of his death?

A. I have record of having administered the communion 3342 seventeen times in all, generally three times a year, sometimes four; I may have administered it on other occasions of which I have no record; the following are the dates from my record: March, 1850—May 19, and December 15, same year in 1851, March 6, May 21, November; in 1852, February 21, May 28, November 8; in 1853, January 15, April 1, June 6, November 4; in 1854, February 15, April 15; in 1855, June 14, November 17; that is all.

Q. Except at these dates have you any recollection of having administered the sacrament at other times? •

3343 A. I have no distinct recollection, except that it was his usage to send for me after his return from the country in the fall, and I have no record of his doing so in the fall of 1854; in 1855, I have no record before June, which was an unusual thing.

Q. Aside from any particular conversation that may have occurred at any one of these administrations of the communion, please state what the manner of the administration and reception of the sacrament was?

A. Uniformly his manner was devout and humble in the 3344 extreme, the utmost propriety of decorum and manifestation of feeling; he seemed to be always very much impressed with the solemnity of the occasion; as to his taking the elements, his manner was precisely the same as on the first occasion taking the bread and cup in his hand and conveying them to his mouth; the sacrament was always on these occasions administered at his house.

Q. What persons do you remember at any of these times, who united in the sacrament?

A. I have no recollection of other persons than Mrs.

Parish and this faithful domestic servant who was called 3345
 Mary Ann ; Mr. Parish has himself requested that she
 might be called ; he would do this by pointing to the door
 and nodding to his wife ; she would inquire if he wished
 her to call Mary Ann, and he signified, that was his wish ;
 this occurred more than once.

Q. Did you attend upon Mr. Parish at the closing days
 of his life ?

A. I was with him at about nine o'clock of the night in
 which he died ; he died at four o'clock the next morning,
 as I understood ; he was then in the agony of death.

Q. Describe his situation, and what passed during that 3346
 visit ?

A. I found him breathing very heavily, with all the ap-
 pearance of approaching dissolution ; I spoke to him ex-
 pressing the hope that he knew me ; he turned his head
 and gave me a nod of recognition, intimating that he knew
 who I was ; he turned his head at my words very distinct-
 ly ; I then remarked that I should be sorry to disturb him,
 but if you wish it I will make a short prayer ; he again
 looked at me and nodded his head in acquiescence ; during
 the prayer his heavy breathing was in a measure sup-
 pressed, and at its conclusion I took his hand, when he
 sensibly pressed mine, and I bade him adieu ; I never saw 3347
 him again.

Q. How shortly before that time had you visited him ?

A. Some short time before, perhaps a few weeks ; I had
 seen him in February certainly, and I have record of see-
 ing him on the 8th and 19th of January.

Q. At any occasions of the administration of the com-
 munion, did you speak with Mr. Parish on any subjects, and
 if so what passed ?

A. It is impossible for me to recollect now all the sub-
 jects of conversation that may have passed between us ;
 we had on each of these occasions more or less of con- 3348
 versation on religious subjects and the topics of the day.

Q. Did anything occur upon any of these occasions in
 reference to communion alms, or offerings ?

A. It was the usage of Mr. Parish to make some contri-
 bution on these occasions to the communion fund of his
 church ; on one occasion allusion had been made in our

conversation to the claims which were then pressing upon the fund; he immediately looked towards Mrs. Parish, holding out his hand, when she replied, you wish to give the Doctor something, when he replied, yah, yah, in his usual way, nodding his head; she replied, very well, when he is going away we will do so; upon my rising to leave some moments afterwards, he instantly held out his hand again to receive the money; she, opening her bag, took out a white piece of paper containing two or three small gold pieces; Mr. Parish received them in his hand, but evinced strong displeasure both by his look and contemptuous mode of expression, frowning and saying, nah, nah, nah, shaking his hand towards her, intimating that he was not satisfied, and scolding in his way, and refusing to hand the money to me; Mrs. Parish smiled and said "Give it to the doctor;" he refused to do so, and threw the money back to her; Mrs. Parish picked it up and handed it to me; it was \$15; I received it of course and retired; some days afterwards I was called on by Mr. Delafield, Mr. William Delafield I presume it was, for I could not tell the two brothers apart, who told me that Mr. Parish (Mr. O'Connor objects to the statements of Mr. Delafield; Objection reserved) had given Mrs. Parish no rest until he had succeeded in making her understand that it was his wish to contribute more largely to that fund; that Mr. Parish had himself selected the pieces, and fixed upon the amount which he at that time handed to me in gold, which was \$200.

3351 Q. In what manner, and by whom was the habitual offering upon occasions of communion, conveyed to you?

A. Generally by Mr. Parish himself taking it from one of his pockets and handing it to me when about leaving; it was—as far as I remember it was always in gold and about \$25 as a general thing.

Q. How would this subject of this contribution arise?

A. There was nothing particular in that as a general thing; he made contributions on other occasions than upon communion.

Q. Would you have any conversation or make any statement to him concerning the charities?

3352 A. Occasionally I did; upon one occasion, for instance, Mrs. Parish inquired of me how Mr. Harwood, the minister

of the Church of Christ we were not to pay for his wages. The wife & Mr. Patrick intended to which again - and another responsibility to the amount of \$1,000. on a lecture from Mr. Howard that he would take the money and see a real and powerful work in that Mrs. Patrick had already contributed \$25 - replied that he had succeeded very easily and that - had endeavored to get the money, but finding it so impossible - had myself paid the balance and at the same time gave - Mr. Patrick immediately took up the subject and in his enthusiastic but emphatic manner, inquired how much I had paid: he would for instance as soon as I said I had paid the money, pointing to me and saying yal yal yal in a very enthusiastic manner as if with indignation: I replied, yes sir, I have paid it rather than let my men for their good which is like draining their hearts' blood from them: he then looked at me inquiringly again with his two fingers raised which was a usual motion of his. I asked him, do you wish to know how much I have paid: he replied enthusiastically, yes, yes yal yal yal nodding his head: I replied to him that the balance I had paid was \$425: he immediately looked at Mrs. Patrick and pointed to me: she said, you want me to repay this to the doctor: he replied yal yal yal, yal yal, nodding his head and pointing to me: she replied, very well, we will see about that: I afterwards received a check for \$425.

Q. In what way did Mr. Parisi hold his hand at the time the \$25 in gold was rejected by him?

A. His way of holding the left hand was with the arm extended and the palm upwards and open with the money in it.

Q. Did you ever have any conversation with him or in his presence, in regard to the Eve and Ear Infirmary?

A. I had. I had mentioned to Mr. Parish the intention of the trustees of that institution to solicit subscriptions from the citizens of New York, towards the erection of a suitable building for that interesting and important charity, and told him that I supposed he would contribute towards the object; he signified his readiness to do so. When our books of subscription were prepared, I having been appointed chairman of a Committee on Collections, called un-

3356 on Mr. Parish with a subscription book, upon which there were three subscriptions of \$2000 each. After the usual salutation upon meeting him, I observed, Mr. Parish, you have been blind and now are dumb, and my wife is deaf—and you and I must do what we can to prevent other people from being either blind, or dumb, or deaf—he replied instantly, yah, yah, yah, yes, yes, yes, reaching out his hand for the book; he laid it upon a chair before him and turned over the leaves with his finger; finding nothing written but the three subscriptions already mentioned, he looked up to me with an inquiring expression, as much as to say, is there nothing lower than that? I replied, “no-
 3357 thing, Mr. Parish, less than \$ 000 to me, when it gets below that I will give up the book—he replied, yah, yah, and striking the place on the book where the subscriptions of \$2000 each were, with his finger, looked at Mrs. Parish in his usual way, when he wished her to do anything for him; she asked, you wish me to put your name down? he replied, yes, yes, yah, yah, yah, striking the place: She said: But perhaps, Mr. Parish, you would like to give more; he immediately said, No, No, No, No, very emphatically striking his finger on the book. He had a very emphatic way when earnestly bent on any one thing, and nothing but that; he did not wish to be diverted from it. Mrs. Parish wrote his name with \$2000 annexed, handing the
 3358 book back to him; he looked at it to see if it was right, to see if it was what he wished. He signified his acquiescence, and handed it back to me, himself.

THOMAS HOUSE TAYLOR.

Subscribed and sworn before me, {
 June 27, 1856, }

A. W. BRADFORD,
 Surrogate.

June 28, 1856. 3359

Parties present,

Thomas House Taylor, being further examined, says : I am unable to fix the precise date of the subscription to the Eye and Ear Infirmary ; it was in the year 1854, or the early part of 1855 ; the date of the donation of \$200, was in March, 1851, or early in April ; the donation towards the organ was in April, 1852 ; there was and is a charity connected with my church, which embraced a 3360 Missionary School ; the Episcopal clergy of the city of New York have agreed among themselves to divide the city into districts, lying adjacent to their respective churches ; within the limits of their respective districts they agree to attend to the spiritual and temporal wants of the poor ; with a view to carry that object into effect, I employ a minister of religion to visit every dwelling likely to be inhabited by poor people, within my district, to see if their children attend schools, and if not to enter them in the nearest public school ; if they require food or clothing 3361 to supply it ; to gather the children into Sunday schools, and invite the parents to attend public worship on the fixed hours of Sunday, where he preaches to them without cost ; I had mentioned this charity to Mr. Parish, and he seemed to take deep interest in it, rarely seeing me without recurring to the subject and receiving details of our success with manifest pleasure ; upon occasions of meeting him he would immediately appeal to me inquiringly, as if wanting to hear something from me, holding up his fingers and saying yah, yah, yah ; I would reply. Do you wish to hear about the mission and the school, and he would say 3362 yah, yah, nodding his head with evident satisfaction that I had hit his inquiry ; I would then relate to him such incidents as had occurred to me in the course of our experience of the working of this plan ; it seemed to suit his practical turn of mind as being the best way of doing good.

Q. How did he manifest the pleasure you have spoken of ?

A. There was an expression of pleasure beaming from his countenance, and he continued to nod his head approv-

3363 ingly; early in January, 1856, after an interview of this kind with him, he seemed to inquire whether we wanted funds; he did this by continuing his questions in his own way, by holding up his fingers as usual and continuing to look inquiringly and saying yah, yah, until we hit upon his object of inquiry; we would have to guess often times; he would then express his satisfaction, as much as to say that is what I want to know; he then turned to Mrs. Parish, and holding up his two fingers (it was an invariable motion of the hand,) and nodded to her; she inquired if
 3364 he desired to supply our exhausted treasury; he signified at once his desire to do so, and in a day or two I received his check for \$500.

Q. In whose check?

A. It was signed by Mrs. Parish accompanied by a note from her saying it was at the request of Mr. Parish she had done that.

Q. Did you ever say anything to Mr. Parish on the subject of St. Luke's Hospital or its subscription fund, and state all you know on that subject.

A. I had been requested by gentlemen interested in that
 3365 charity to mention it to Mr. Parish, which I did; he expressed his approval of the object, and I told him that a subscription book would be presented to him within a few days; he bowed his approval at the time; the time would be difficult for me to fix; it was in 1853 or 1854; it made no impression upon me at the time; I had no charge of obtaining or collecting subscriptions for that hospital; I mentioned to Mr. Parish the names of Dr. Muhlenburg and Mr. Robert Minturn as persons taking deep interest in it, and that Dr. Muhlenburg would probably call on him for a subscription.

3366 Q. After the receipt by you of the \$200 donation, did anything pass between you and Mr. Parish on that subject?

A. Nothing very particular that I remember. I probably took occasion to thank him for his great liberality, as I always did in such cases.

Q. After the receipt of the \$400 for the organ did anything pass between you on that subject?

A. I wrote a letter of acknowledgment, and it was afterward the subject of conversation between us, I expressing to him, personally, my grateful sense of his kindness.

Q. Did you ever hold religious conversations with Mr. Parish ? 3367

A. Frequently.

Q. Please state in what manner such conversations arose and were conducted.

A. Mr. Parish's habitual turn of mind was very desponding through his illness. It became my duty to suggest to him the consoling doctrines of our religion, the cheering views they opened, and the hopes they inspired. He always heard me with marked attention, would express his gratitude by squeezing my hand, pressing my hand, and asking me to come again soon. I ascertained this by his looking toward Mrs. Parish when I was about to leave him. She would say, do you wish me to invite the doctor to come again, and he nodding his head quickly, and looking at me with great kindness. 3368

Q. Did you ever read to him from the Scriptures ?

A. Short portions of Scripture occasionally, but constantly quoting the cheering texts of the Bible.

Q. What was his manner during and after the reading of the Scriptures by you ?

A. He always heard me with devout attention, and evinced deep feeling.

Q. Can you state any parts of the Scriptures which you so read to him ?

A. It would be rather difficult for me to recall them. Portions of the Sermon on the Mount he was always interested in. 3369

Q. Did you ever read to him from the Prayer Book otherwise than in the administration of the Sacrament ?

A. I do not remember that I did.

Q. In these interviews in relation to charities, and of religious conversation, and of reading of the Scriptures of which you have spoken, did you suppose that Mr. Parish understood what was said and read in his presence ?

A. I entertained no doubt upon that point, I mean after the occasion of his baptism to which I have already alluded when I had some misgivings as I have already said. If I could make that stronger I would, for I did not conceive it possible for any one to doubt as to his general intelligence.

Q. Were you in the habit of calling or visiting in a general way at Mr. Parish's, subsequent to his attack ?

3370 A. I called frequently at the house as my leisure served.

Q. Were these visits in the day time or evening?

A. Both.

Q. What was your habit in regard to conversation with Mr. Parish at these general calls?

A. The conversation was such as is likely to occur upon persons making calls upon their friends in sickness and in health—our topics were sometimes very cheerful and sometimes sad and gloomy enough.

Q. At these calls did you meet or see others than Mr. Parish in the room with him?

A. Occasionally I did—friends and connections of the family.

Q. At these calls what was the habit of Mr. Parish in 3371 respect of the ordinary courtesies of society?

A. He received his friends kindly, and seemed disposed to offer them such courtesies as were in his power.

Q. How in respect of invitations to yourself or any others, that you observed?

A. Mr. Parish continued the old fashioned usage of having a waiter, with wine and other refreshments on the table before him, and would very politely invite them to help themselves—if I called in the early evening, and rose to go away before the tea was brought in, he would evince disappointment and, turning to Mrs. Parish, would signify to her his wish that I should wait for a cup of tea.

Q. How did he signify his disappointment and his wish?

A. He would look at me disapprovingly and, when turn- 3372 ing to Mrs. Parish, she would immediately say, "Do you wish me to press the doctor to stay to tea"—he would immediately signify his acquiescence by nodding his head, as usual, and smiling approvingly—all of which was most readily understood by those present, although perhaps very difficult to describe.

Q. Did he ever offer wine to you and, if so, in what manner?

A. He has frequently done so—by pointing to the decanter before him, and nodding his head while looking toward me.

Q. Can you mention any instances of your conversation with him at these general calls?

A. As the calls were general so the conversation was, in 3373 most cases, general; he seemed to take an interest in the remarks of different persons present, and if he failed to catch the meaning, would arrest the conversation until the matter was explained to him; for instance, I remember on one occasion, when there were several persons assembled in his library, I indulged in a little pleasant badinage with the Messrs. Delafield, who happened to be incorrigible old bachelors, remarking that I had been waiting patiently through a long course of years for a call from one or both of them, for my professional services, and naming a most 3374 estimable lady of our acquaintance and a near neighbor of theirs, expressed my surprise that they had never had the taste or spirit to aspire to the office of making her happy; this direct appeal to them raised a laugh at their expense, which Mr. Parish not directly understanding, appealed to me to know what I had said; he did this with as much earnestness and as intelligibly as he could have done if he had had the power of speech; I approached him and said, you did not hear what passed, and wish to know, he signified that that was it, and smiling as genially as the rest of us, 3375 he pointed his finger reproachfully at these two gentlemen.

Q. Did you repeat to Mr. Parish what you had already been saying?

A. I did.

Q. How did Mr. Parish signify that that was it?

A. By nodding his head, and looking inquiringly, as usual in such cases.

Q. How did Mr. Parish indicate that he wanted this repeated, what you had said to the Messrs. Delafield, before you approached him? 3376

A. Looking towards me, raising his fingers, and saying "yah, yah,—yah, yah,—yah, yah,—yah, yah."

Q. In the sounds which you have given as made by Mr. Parish, with the look or gesture of inquiry which you have described, did you observe what the intonation of these sounds was?

A. It was a tone of interrogation, and I always intended to express that, when I said that he looked inquiringly and said "yah, yah."

Q. Do you remember any instance of conversation with

3377 Mr. Parish, having any connection with a fall of snow in the city?

A. In the winter of 1854-5 there had been a heavy fall of snow, which rendered the passage of our narrow streets more or less dangerous for carriages. I happened to call at Mr. Parish's house just as Mr. and Mrs. Parish had returned from a drive to Wall street; I found Mrs. Parish very much flurried and nervous from the peril to which she had been exposed in passing through Wall street in her carriage; she complained bitterly of the unpleasantness of
3378 being obliged to go there; Mr. Parish looked at her reproachfully and sadly, and continued to use his exclamations of surprise and reproach, shaking his head sorrowfully; I can give you an exemplification of that if it will convey anything to your mind, and if you can write it down: he raised his hand with the two fingers extended, shaking his hand and head repeatedly, and saying "yah, yah," rather drawn out in a reproachful intonation, that he was made unhappy by her complaints, and looking at her at the same time; I observed, "you think, Mr. Parish, she is
3379 making too much of a little thing, and so I think; she does not go to Wall street for the pleasure of doing it, but because her duty calls her there, and if her duty calls her, she must go again with you." He immediately replied, "yah, yah, yah," nodding his head and raising his two fingers, and pointing to her, as much as to say, you now have what I would have said to you.

Q. Do you remember any conversation with Mr. Parish on the subject of Mr. David Austin, and if so please to state it?

3380 A. At one of my visits, the subject of Mr. Austin's failure became a topic of conversation; Mr. Parish evinced great interest in Mr. Austin, and appealed to me by his usual look, movement of the fingers, and intonation of interrogation, to tell him more about the failure; I asked him if he wished to know whether it was an utter and complete failure, and he, signifying by nodding his head and waiting for my reply, that such was his wish; I then told him that such was the general belief; he seemed to be affected by it, his tears ran rapidly down his cheeks, and his look was that of sorrow and regret.

Q. Was this subject ever brought up again between 3381 you?

A. It was repeatedly by Mr. Parish pointing towards the house of Mr. Austin with his usual look and tone of interrogation; that house was at the north-west corner of Union Square and Sixteenth street, visible from Mr. Parish's window; Mr. Parish was seated in his library at the time; I would say, do you wish to inquire after Mr. Austin; he would nod his head and say, "yah, yah," his usual mode of expression; I would then proceed to tell him that the good old gentleman was well, and sustained his misfortunes 3382 with equanimity; he would evince his sympathy by looks, tones of sorrow, and tears.

Q. Did you observe any variations of emphasis in Mr. Parish's utterance of the affirmative or negative sounds which you have mentioned? (Objected to as leading—objection sustained.)

Q. What did you observe in Mr. Parish's utterance of the sounds which you have mentioned or indicated as made by him, in respect of variety or sameness of tone?

A. There was marked difference in the intonation when 3383 expressing inquiry, or approbation, or disapproval.

Q. Did you observe anything in respect to length or variety of his utterance of these sounds?

A. Well, I don't know that I understand what you would come at.

Q. I mean at different times?

A. I am at some loss at answering the question. In his desponding moods he would give length to his expressions, it was very doleful, and expressive of despondency; in his moments of impatience, it would be quick. In his expres- 3384 sions of disapproval, the force of the utterance was given by the look which accompanied it; it was the only expression he had.

Q. In what sense do you use the word expression, where it first occurs in your last answer?

A. I mean by it—the sound that he uttered.

Q. While Mr. Parish was directing the look, or gesture, or intonation of inquiry which you have described, and suggestions were made by you, how did he indicate his reception of those suggestions?

3385 A. By saying, no, no, rapidly; and shaking his head at the same time with a negative motion, if he disapproved of it; and then looking for a further suggestion—when I hit upon what he wanted to know, he would nod his head several times quickly, and say, yes, yes; I would also add that when Mr. Parish intended to give a decided refusal to a question or appeal made to him, he had the habit of saying no, and shaking the head with a negative motion, following that up with the affirmative shake of the head, as if he would say no, no, shaking his head and then nodding
 3386 his head and making a noise; that's it, and no mistake—you have my answer from which there is no appeal.

Q. Did you observe anything as to the greater or less energy of Mr. Parish's utterance or gestures on different occasions.

A. I did; when displeased, his expression of displeasure was very marked and emphatic; and so too when anything met with his approbation, there was no mistaking the manner in which he manifested it.

Q. Did you observe as to his sense of hearing whether it
 3387 was quick or otherwise?

A. I never observed that it was defective at all.

Q. Did you observe concerning his sense of sight, either before or after his illness, whether there was any difference?

A. Before his illness he was at one time entirely secluded from the light on account of his sight; an operation had been performed for cataract as he told me; in the earlier part of his last illness he saw sufficiently to enable him to read; for perhaps the last three years of his life he frequently complained to me of a painful affection of his eyes;
 3388 he would do this by pointing to his eyes when I asked him how he was, shaking his head sorrowfully and lifting his glasses.

Q. What did you observe in respect to the firmness or decision of his temper after his illness as compared with such qualities before his illness?

A. I remarked no particular difference; if he got a notion in his head it was very difficult to get it out.

Q. What did you observe as to the operation of his mind in respect of quickness after his illness as compared with its operation in that respect before his illness?

A. I have already remarked that I never looked upon 3339
Mr. Parish as a quick man, although sound in the exercise
of his judgment, and I remarked no difference in these re-
spects until within the last year of his life, when he seemed
to be more sluggish and evinced less interest in persons
and things around him.

Q. From your observation of Mr. Parish after the attack,
in 1849, what was the condition of his mind?

A. I had not myself the least doubt of the soundness of
his mind, nor could I have supposed that any intelligent
person could doubt its soundness.

Examination by Judge Edmonds—

Q. You have spoken of contributions made by Mr. Pa- 3390
rish for charitable purposes after his attack, can you name
any instance before his attack of similar contributions with-
in a similar period of time?

A. I can not; when he had the power of acting and
speaking for himself, I hoped that, like many other good
men, he did his deeds of charity in secrecy.

Cross-examination by Mr. O'Connor—

Q. Was not Mr. Parish, before his attack, strongly mark-
ed by these characteristics, great self-respect and strict ob-
servance of decorum, and in his intercourse with others,
great courtesy and affability of manner?

A. Most decidedly so

Q. Did you ever witness, before his attack, any exhibi- 3391
tion of anger, irritation or discourtesy, towards his wife or
any other person?

A. I never did.

Q. Was he, prior to his attack, a punctual and regular
attendant of your church, on Sundays, when in the city?

A. He was.

Q. Did you know, from his own communication or other-
wise, before his attack, whether he had ever been bap-
tized?

A. I did not.

3392 Q. Did you know, from his own communication or otherwise, before his attack, whether he had ever been attached as a communicant, or otherwise regularly admitted member of any religious society?

A. I did not.

Q. Did you at any time, within ten years prior to his attack, request him to make a contribution to any charity, or attempt in any way to induce him to such an act?

A. I did.

Q. Did you in any instance succeed?

A. I did.

3393 Q. State the instances.

A. To the best of my recollection it was in the year 1846, that I started a subscription among the people of my charge for the erection of a free chapel for the accommodation of such persons as could not afford to worship in our expensive churches; Mr. Parish was among the number, who subscribed \$250 each towards that object, and my impression is, although upon that point I will not be positive, that he, with others, doubled his subscription before he was struck with paralysis; no other instance occurs to me at present.

3394 Q. If the \$250 subscription was doubled or repeated, when was it done, and who knows the fact?

A. It was done, if done at all, before July, 1849; who presented the subscription list to him, I do not now know, and the fact can be easily ascertained by myself, by reference to the book of subscriptions in my own possession; I cannot at present come any nearer the date.

Q. On the occasions when you administered the Sacrament of the Lord's Supper, did Mrs. Parish and the domestic, Mary Ann, always unite?

3395 A. Mrs. Parish always; to the best of my recollection, Mary Ann was present and united in the Sacrament, except on the first occasion.

Q. Do you know the name of this servant, and by whom she is now employed?

A. I know her by no other name but Mary Ann, and I have recently seen her at the residence of Mrs. Parish; in what capacity she is employed there, I know not.

Q. Was any other person present at any of these adminis-

trations of the Lord's Supper, except the three persons 3396
named and yourself?

A. I have not at present any distinct recollection of any
other persons being present on any occasion.

Q. Were you called in, to attend Mr. Parish as being in
danger of death at any time, before the Saturday evening,
to which you have referred?

A. I have no recollection of ever being sent for, upon
such an occasion before.

Q. At any time that you saw him before that Saturday
evening, did you suppose him to be in a condition, which
indicated the near approach of death? 3397

A. I do not remember any such occasion.

Q. You have mentioned a receipt by you of \$200; about
how much time elapsed, as you best remember, between
the conversatton at which the \$15 were given, and the re-
ceipt of the \$200?

A. I should now say two or three day, but speak hesitat-
ingly; it was some short space of time.

Q. About how much time elapsed between your conver-
sation at the house about the organ, and your receipt of the
\$400 ceck? 3398

A. I think it was received the next day.

Q. Who handed it to you, at what place, and what name
was subscribed to the check?

A. I have no recollection who handed it; it was deliver-
ed at my rectory, in Broadway; Mrs. Parish's name, to
the best of my recollection, was subscribed to the check.

Q. Did Mr. Parish, at the times you saw him after his
attack, always wear spectacles?

A. To the best of my recollection, he always did, having
one pair to read with, and another to see at a distance; he 3399
changed his glasses upon reading.

Q. What was the color and what the make of these
glasses, in respect of the degree, to which they enclosed or
srouded his eyes?

A. I cannot say that I ever examined or observed them
sufficiently to answer that question.?

Q. In your interviews with him, had he not his glasses
always on?

3400 A. I should say yes, sir, decidedly ; always on, to the best of my recollection.

Q. Have you any knowledge or recollection as to whether he wore glasses of great convexity, or not ?

A. I have no knowledge upon that subject ; I never opened or examined his glasses.

Q. You say that he used one pair of glasses to read ; did you ever see him read ?

A. I have seen him read repeatedly ; and I say that he used one pair to read, and another to see at a distance, because I remember distinctly on one occasion see him adjust his glasses in order to read something that was brought to his notice.

3401 Q. In what way, and by what act, did he adjust his glasses ?

A. If I remember rightly, with his left hand ; he was bringing a glass down which he wore up on his forehead, while the other was upon his nose ; I then inquired whether it was necessary for him to use different glasses when reading from those which he used to assist his sight ordinarily ; he replied that it was, by nodding his head in his usual way of answering affirmatively.

Q. Did you ever, on any other occasion, see him adjust his glasses, or change his glasses ?

A. I have no recollection of seeing him do so at any other time.

3402 Q. Who was present on this occasion ?

A. Mrs. Parish was present, and no one else that I now remember.

Q. Who was it brought this reading matter to his notice, and how was that done ?

A. Upon that point I have no distinct recollection.

Q. About what time was this, according to your best recollection ?

A. I am utterly unable to fix a date to so unimportant a transaction as that.

Q. What books, paper or papers, did you ever see Mr Parish read ?

A. I have seen him reading his prayer book during the administration of the sacrament repeatedly ; I have seen him reading a newspaper, but what paper I am unable to say ; that is all.

Q. Did he always read the prayer-book, during the administration of the sacrament ? 3403

A. In the latter part of his illness I should say he discontinued the use of the prayer-book, before that, he did read it always.

Q. Who furnished him a prayer-book on these occasions ?

A. Mrs. Parish.

Q. Was he instructed or directed by anybody at what place to read ?

A. He was ; places were found for him, and as soon as they were pointed out, he would nod his head, to show that he understood ; I would on such occasions wait until I saw that Mr. Parish was prepared to go on with the service ; Mrs. Parish, standing or sitting by his side, would point out the places and turn the leaves ; in the earlier stages of his illness he always insisted upon standing, and knelt where it was proper that he should kneel ; in the latter years of his illness he would sit during the service ; when he sat, the book was usually upon a chair, or the arm of the chair, or a table before him ; when he stood, he held the book in his left hand, Mrs. Parish reading with him, as any two persons might read together. 3404 3405

Q. About how long before his death did he cease to use or read in the prayer book ?

A. I should speak hesitatingly as to the time, but about eighteen months or two years.

Q. Did he always stand at communion from and including the first service, during the earlier stages of his illness ?

A. I should say that he did ; there may have been an occasional exception ; I remember none such.

Q. Down to how late a period of his life did this practice of standing, continue ?

A. The precise time I cannot fix, but it was until he grew heavy and weaker than he had been and found it inconvenient to stand ; I should say it was eighteen months or two years before his death ; I will add to that, I desired he should take the position most convenient to himself ; I expressed that desire. 3406

Q. At the services did or did not Mrs. Parish kneel at the proper places ?

A. She always did as far as I know and believe.

3407 Q. Do you remember any instances in which Mr. Parish omitted to kneel at the same time?

A. I remember many instances in which Mr. Parish in the latter years of his life, did not kneel, but not in the earlier years.

Q. You observed that he insisted upon standing; did you in the earlier periods of his illness endeavor in any way to prevent his so standing?

A. I did by expressing to him my wish that he should not stand or kneel if it fatigued him to do so; there was no 3408 other or further urgency than that.

Q. In what way did Mr. Parish kneel during those services; please to describe the operation.

A. I have no recollection of any peculiarity in his manner of kneeling, nor am I able to describe any such manner.

Q. Did he kneel with only one knee or on both?

A. I should say they were both bent, but as I only passed before him in administering the elements, it made no impression upon me, it did not strike me as peculiar.

3409 Q. When you say kneel, do you mean to say that his knee or knees were placed upon the floor?

A. That is my meaning.

Q. What is now your best recollection as to whether he placed both knees upon the floor or only one?

A. If I had not been asked the question I should have said that both knees were bent; it is altogether possible that one only was bent.

Q. Have you any present recollection of the fact as to whether one knee only or both knees were placed upon the floor?

3410 A. I will not be positive upon that point, for I attached no importance to the position.

Q. Did he bend his knee or knees, or rest it, or them, upon the floor, himself, or was he aided in getting down to that posture by some other person?

A. I am unable to answer that question positively; my own duties would necessarily direct my attention from the parties engaged with me in the ceremony.

Q. Did you observe the fact sufficiently at any of these services to enable you to state from recollection whether

Mr. Parish got down upon his knees himself, or was placed 3411
in that posture by the aid of some other person ?

A. I am unable to say.

Q. When did you first observe Mr. Parish reading a
newspaper ?

A. It is impossible for me to fix a time, I should say
within the first year of his illness.

Q. To how late a period in his life did you observe him
reading the paper ?

A. I think that I have already said, to about eighteen
months or two years preceding his decease. 3412

Q. Did you ever see any other person besides his wife
present when he was thus reading the newspaper ?

A. I remember no such occasion.

Q. On the occasions when you saw him reading the pa-
per, did you find it in his hand when you came in, or did
he take it up after you came in ?

A. As I remember I have both seen him with it in his
hand when I came in, and have seen him take it up after
I have entered.

Q. How often, according to your best recollection, have
you seen him have the paper in his hand reading ? 3413

A. Two or three times.

Q. How long at any one time have you seen him have
the paper in his hand, apparently reading it ?

A. It was generally put away when I entered ; I have
seen him, when attention was drawn to any one thing,
take up the paper and look at the article to which attention
was drawn.

Q. Have you ever seen him holding the newspaper in his
hand, and apparently engaged in the act of reading for as
long a period as three minutes ? 3414

A. I should say that I had.

Q. For how long a period at the utmost ?

A. From five to seven minutes, while reading a short ar-
ticle.

Q. Can you name any particular article, short or other-
wise, which he thus looked at ?

A. I cannot at this time.

Q. Can you specify and describe the occurrence and oc-

2415 *again when he thus looked at an article, and by whom and by what means his attention was drawn to it?*

A. I cannot at this length of time.

Q. Can you now remember whether on any such occasion he took up the paper himself with his own hand, and without its being handed to him?

A. To the best of my recollection on the occasion I allude to, he took it with his own hand.

Q. About what time was that?

A. To the best of my recollection, within the first year **3416** of his illness.

Q. Did you ever know before Mr. Parish's illness, or did he inform you, whether he had ever been attached to, or a professing or attending member of any denomination except Grace church?

A. I have no recollection of his telling me anything of the kind, nor did I know of it.

Q. Do you remember whether in any way or form, by a present to yourself or otherwise, Mr. Parish ever contributed to any religious or charitable purpose prior to his illness, except his pew in Grace church, and his subscription for the chapel?

3417 A. He never presented anything to me prior to his illness, nor do I know of any such contribution.

Q. You have spoken of seeing persons as visitors at Mr. Parish's, after his attack when he was present: please to name every such person that you can now call to mind.

A. I have seen the different members of the Delafield family there, Mr. Kernochan, Mr. Gasquet, and really I cannot at this moment recall the names of other people; I have met strangers there with whom I have no acquaintance.

3418 Q. According to your best recollection, what was the whole length of the interview at which you received the \$15 spoken of?

A. It was a communion occasion, and therefore some time was taken—say three quarters of an hour.

Q. About how long after the close of the communion service did you remain on that occasion?

A. Fifteen to twenty minutes.

Q. You have stated that Mr. Parish threw the money

towards Mrs. Parish; please to describe that operation as 3419 minutely as you can.

A. After holding the little package in his hand for some minutes of time, with his hand extended and appealing to her with his usual expression of dissatisfaction; she remarked, give it to the doctor; he shook his head and saying, no, no, with a toss of the hand threw the money back to her.

Q. Where did the money fall or strike when thus cast from him?

A. To the best of my recollection, it fell upon the table, and from the table to the floor.

Q. Was he seated or standing?

A. He was seated at the time.

Q. Could any person, of common intelligence, there present, have failed to understand that Mr. Parish wished at that time to give you a larger sum of money?

A. I think they could not.

Q. From what then and there occurred under your observation, have you any doubt, or do you believe that Mrs. 3420 Parish so understood it?

A. I have no doubt that she did understand it.

Q. Did Mrs. Parish, then and there, in any way state or make apparent any reason for not complying with his wishes in this respect?

A. She did not.

Q. Did Mr. Parish at that time exhibit much irritation and temper at a non-compliance with his wishes?

A. He did exhibit irritation.

Q. Was it quite or nearly an uniform practice to give some contribution at each administration of the sacrament? 3421

A. It was.

Q. As nearly as you can recollect, was the money always handed to you by Mr. Parish, except in this instance of the \$15?

A. It occurs to me that in the earlier celebrations of the communion Mrs. Parish would take the money from her bag as she did at that time and hand it to him and he to me; on later occasions he would take it from his own pocket; when he handed it to me, it was always gold.

Q. At or about how early a period was his practice of taking the money from his own pocket, commenced?

3422 A. I should say about the second year of his illness.

Q. Do you think that the \$15 occurrence was earlier than that?

A. That was about the month of April, 1851.

Q. Please to describe separately, each by itself, the various words or sounds you heard from Mr. Parish after his attack, giving at the same time with each sound or set of sounds, any gesture or gesticulation with which it was accompanied?

A. Mr. Parish would say "Yes," nodding his head; he
3423 would say "No" sometimes shaking his head violently, and then nodding it up and down at the same time. He would say "yah, yah, yah," generally holding up his hand with the two fingers extended; another one he would say yea, yea, yea, when it was yes; he rarely said yes more than once, and then it would run into yea; I am not certain whether there was any gesture with that, he used his hand so constantly it is difficult now to say with what words he associated the motion of the hand; he would say "nay, nay," as a continuation of no, and it would run off
3424 into an indefinite sound expressive of despondency; it was accompanied by a shaking of the head; I don't know of anything more.

Q. Did you ever hear him say "yes," and stop there without running off to repetitions?

A. I should say not; he generally repeated the affirmative answer.

Q. When he said "yes" and his voice went on repeating, did it observe to the end the same sound, or how did it vary?

A. He said "yes" plainly but once, and then would fall
3425 off into yea, yea—yea, yea.

Q. Did you ever hear him say, no, and stop there, without running on to repetition?

A. As a general thing, he would run on into repeated nays, but I would not say that he never said, no, ~~but~~ once.

Q. When he said, no, and his voice went on repeating, did he continue the same sound, or did it vary, and if ^{g.} how? ^{sc}

A. It would vary in quickness of utterance, and also ⁱ

slowness of sound ; he did not repeat no as a general 3426 thing, but changed it into a softer sound of nay.

Q. Can you now say, that you ever heard Mr. Parish, after his attack, say, "no," or "nay," simply once, and not run on or continue repetitions of sounds ?

A. I cannot say positively, that I ever did.

Q. Do I understand you to say, that when giving a negative by no, or some of its repetitions, and shaking his head from side to side, he sometimes altered that gesture, towards the last, and nodded his head up and down, in the form, which you took for an affirmative gesture ?

A. He did so, and gave greater emphasis to the no.

Q. Did you discover, at any period of his illness, any 3427 change in his vocal sounds, or that he lost the power of making any of these sounds which you have described ?

A. In the last year, the last twelve months of his life, his sounds and motions were less vehement and earnest, than they had been ; I discovered no other change.

Q. When was it that you had the conversation about going to Wall street in the carriage ?

A. In the winter of 1854-5.

Q. At about what time was the subject of Mr. Austin's failure introduced by you to Mr. Parish ?

A. It was when Mr. Austin failed, but the time I cannot 3428 fix.

Q. Did Mr. Parish ever refuse to take the Sacrament, after the refusal mentioned by you on your direct examination ?

A. I have no recollection of any such after that.

Q. Did he ever make any difficulty or hesitation afterwards ?

A. Never, to my recollection.

Q. Were any persons called in, to act as sponsors at the baptism ?

A. Mrs. Parish acted as sponsor. I had no other sponsor 3429—it was a case of sickness.

Q. Is it not a usual ceremony, whether sickness exists or not, to have two sponsors, one of each sex, when that can be conveniently done ?

A. In ordinary cases, it is so. In cases of sickness, or

3430 under peculiar circumstances of any sort, that requirement is often dispensed with.

Q. Have you ever administered baptism to any other person who was of full age, and had not the power of speech

A. I remember no other instance of the sort.

Q. Have you administered baptism or seen confirmation administered to any deaf and dumb person?

A. I have never witnessed such cases.

Q. Is it not a rule or practice of your church not to administer the Lord's supper until the subject has received the ordinance or rite of confirmation by the hands of a

3431 bishop?

A. Such is the usage and requirement of the church in the case of children; with persons of mature age, and under peculiar circumstances, confirmation is widely dispensed with.

Q. Is it not a rule and usage of the church, notwithstanding that baptism may have been administered after mature age, to require confirmation before administering the Lord's supper, unless there is some special reason for dispensing with it?

A. With persons in health and in ordinary circumstances, such is the rule and usage; but like other good rules, it admits of exceptions.

3432

Q. Is not the presence of a bishop indispensable to confirmation?

A. It is.

Q. Considering that on the 30th of March, 1850, Mr. Parish was in apparently good general health, that his countenance had recovered its usual expression, and having reference to his place of residence and the proximity of the bishop's abode, was there any difficulty or serious impediment to his confirmation?

A. It is enough for the purposes of this issue that I did not deem it necessary or best to call in any bishop upon that occasion.

3433

Q. Is it not considered, in your church, an indispensable thing to the administration of the Lord's supper, that the subject should have, and satisfactorily manifest his faith in the doctrines of that church?

A. A person having already answered the questions proposed to him at baptism, is not in our church required to make any other confession of his faith.

Q. Can you not give the last question as a distinct proposition touching the law of your church, an answer meet the inquiry?

A. I answer no; for all persons "religiously and devoutly disposed" are invited to take the Lord's Supper without any peculiarity of faith. 3434

Q. Were you aware, at any of the times when you administered the Lord's Supper, that Mr. Parish did not or could not write his desires or wishes?

A. I was aware of it.

Q. Did you ever advise or urge him to write his wishes, or to use letters in any way, in order to convey them?

A. In the very early stages of his illness, I did so urge him to obtain a black-board, and practice writing with his left hand.

Q. Did you do so only on one occasion or frequently? 3435

A. The subject was frequently the topic of conversation, during my earlier interviews with him in his illness.

Q. Did you ever see any experiment made by him with the black-board?

A. I never did.

Q. What sounds, signs or gestures, if any, were made by Mr. Parish when you advised him to practice writing, as far as you remember?

A. At first he said, yea, yea, nodding his head that he would—afterwards, upon my renewing the subject, he said no, nay, very despondingly, as being past hope. 3436

Q. How early was that last?

A. It was within a few months after November, 1849; within a few months of my first visiting him.

Q. Did you see him at any time after his attack, and before the 3d of November, 1849?

A. I had seen him, I saw him in the month of September, I think it was the 27th, according to a little memorandum I find among my papers, that was the first time; I next saw him on the 11th of October; I don't think I saw him again till the day of the baptism.

3437 Q. Please to state the particulars of your intercourse with him, and what you saw of him at each of these interviews?

A. On the 17th of September I think I saw him, and found him in a very feeble condition in his room up stairs. I think he was sitting in his arm-chair. I spoke to him of the peril of his condition, for I did not at that time suppose that he would ever leave his room. I think that the subject of his baptism was then first introduced by Mrs. Parish. She told me that he had never been baptised, and I appealed to Mr. Parish whether that was true, he giving me to understand that was so, by nodding his head. My impression is that he did not make any sound on that occasion. After a little religious conversation and a prayer, I left him. I have no recollection of asking him any more questions at that time, except whether it was his wish to be baptised. He signified that it was, by nodding his head again. I don't recollect the sound. I can't fix or recall that, if there was a sound. It was a distinct acquiescence. I remember no other response from him at that interview. On the 11th of October I saw him to the best of my recollection. He was then very feeble. I believe he was sitting in his arm-chair by the side of his bed, and had been very ill. There was further religious conversation, and further allusion to his baptism, but he was so very feeble that my visit was very brief. To the best of my recollection I addressed no remark or question to him which produced any other response than a nodding of the head.

Q. Had you not great apprehensions at each of these visits that he would very shortly die?

A. I thought that very probable.

Q. What reasons induced you to omit proceeding to administer the Sacrament of Baptism at either of these interviews?

A. At the first interview I thought it better to see a little more of Mr. Parish, and at the second interview he was so very feeble that I deemed it inadvisable to produce excitement in any way.

Q. What was the condition of his bodily health at the September interview?

A. He was a very sick man at that time, but not so feeble as I found him in October.

Q. Did he not appear to you at that September interview 3441 to be in a state of fatuity?

A. His look was without expression, the muscles of his face having been rendered rigid and inflexible by the paralysis, which gave him the appearance of the absence of expression.

Question repeated.

A. If I had judged only from his lack of expression I might readily have come to such a conclusion, but his sensible and intelligent reply to such questions as were proposed to him, would dissipate such a conclusion.

Q. Did Mr. Parish habitually weep and indulge in tears 3442 through his illness?

A. Whenever excited, his tears would seem to flow spontaneously, without his control.

Q. When questions or suggestions were made to him, was he prompt or slow with his responses?

A. Generally as prompt as persons usually are.

Q. On the first occasion, when the sacrament was about to be administered, but was not, did you not advise or inform him at the commencement of the interview that you had come for that purpose?

A. I did.

3443

Q. How did he respond to that?

A. By evincing uneasiness, and unpreparedness to go on with it.

Q. What sign, or gesture, or sound, did he respond with, on this first intimation?

A. Looking at me with great kindness, but shaking his head, and saying no, no, nay, nay, lifting his hand at the same time, and making the usual motion with his finger.

Q. How long previously to this call had you been notified to come, or given notice of your intention to call for this purpose? 3444

A. There had been a previous appointment of the time to the best of my recollection; it had been made some weeks before that.

Q. Throughout his illness, had not Mr. Parish's temper and habit become very irritable?

A. I never saw many manifestations of much irritability.

3445 Q. Was Mr. Parish ever at church after his attack in 1849?

A. Never, to my knowledge.

Direct-examination resumed.

Q. You were asked on the cross-examination, by Mr. O'Connor, was not Mr. Parish, before his attack, strongly marked by certain characteristics, &c.; what did you observe in these respects in Mr. Parish after his attack?

3446 (Mr. O'Connor objects to the question as leading; objection sustained.)

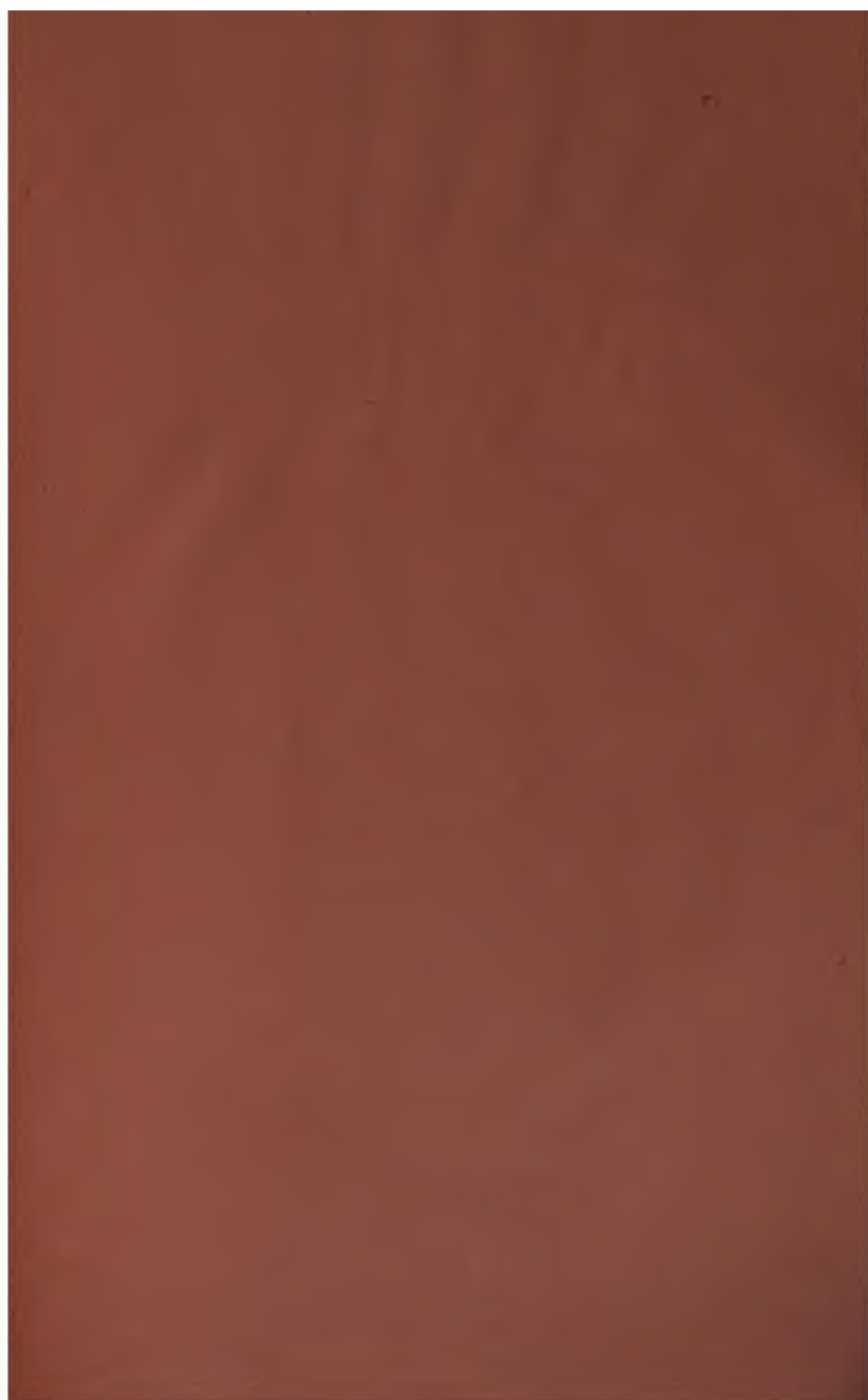
Q. After Mr. Parish's attack, what did you observe in his conduct in respect of discourtesy towards his wife, or any other person?

A. I never observed any instance of either discourtesy or want of respect towards his wife, or any other person.

THOMAS HORSE TAYLOR.

Subscribed and sworn before }
me, June 28, 1856.

A. W. BRADFORD,
Surrogate.



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